THE

NORTH AMERICAN REVIEW.

DECEMBER, 1880.

No. 289.

Tros Tyriusque mihi nullo discrimine agetur.

NEW YORK:
D. APPLETON AND COMPANY.
1880.

COPYRIGHT BY
ALLEN THORNDIKE RICE.
1880.

NORTH AMERICAN REVIEW.

DECEMBER, 1880.

Art.		Page
I.	The Future of the Republican Party. By George S. Boutwell	475
II.	Discoveries at Olympia. By Professor Ernst Curtius	484
III.	Rational Sunday Observance. By the Rev. James Freeman Clarke, D. D.	496
IV.	Southern Statesmen and their Policy. By John Jay	507
V.	The Ruins of Central America. Part IV. By Désiré Charnay	519
VI.	The Distribution of Time. By Leonard Waldo, S. D.	528
VII.	The Public-School Failure. By Richard Grant White	537
VIII.	The Validity of the Emancipation Edict. By Aaron A. Ferris	551

THE Editor disclaims responsibility for the opinions of contributors, whether their articles are signed or anonymous.

NORTH AMERICAN REVIEW.

No. CCLXXXIX.

DECEMBER, 1880.

THE FUTURE OF THE REPUBLICAN PARTY.

THE existence of a party in power for the term of twenty-four years, against an active, persistent, and capable opposition, is an unexampled circumstance in American politics. To be sure, the party of Mr. Jefferson administered the Government for the same period of time, but Mr. Monroe was supported in 1820 by the entire body of the people. There was then no party; the opposition had disappeared; the Administration represented the country.

The passage of the Kansas-Nebraska Bill in 1854 caused the first serious division in the modern Democratic party. The course of Mr. Douglas in 1857, and thenceforward to 1860, resulted in the election of Mr. Lincoln.

The popular vote given to Mr. Lincoln was much less than a majority, however, and the Republican party accepted power under circumstances that even in a time of peace would have been fraught with peril. The election of 1862, although eleven Democratic States took no part in it, was so disastrous to the Republicans, that the majority in the House of Representatives of the Thirty-eighth Congress was less than twenty. At every Presidential election from 1864 to 1880 the contest has been severe, bitter, and always doubtful. In several of these contests the Democrats have gained much by their crimes, and often they have lost much by their stupidity. In the contest just ended, both of these statements have been veri-

fied. By their crimes they conquered, they subjugated Mississippi, Louisiana, and other States of the South that, upon a free vote, would have been Republican; by their blunder they lost New York, Connecticut, and other States of the North, that, except for the tariff issue, might and probably would have sustained the Democratic party.

Had that party been wise, a plain way was open by which they could have made the tariff question a source of strength instead of an element of weakness, as it became by the unskillful management of leaders at Cincinnati.

Senator Eaton, a Democrat, had proposed a commission, to be clothed with power to examine and report upon the entire revenue system of the country. As far as the Senate was concerned, the commission had been created, and nothing was wanting but the concurrent action of a Democratic House. If the party at Cincinnati had abstained from the declaration in favor of a tariff for revenue only, and had announced its purpose to await the report of the commission, and then to so adjust the rates of duty as to furnish revenue and give incidental protection to our industries, the Republican party would have been compelled to accept the position as a reasonable one under the circumstances. To be sure, the doctrine would have been inconsistent with the traditions and history of the Democratic party, and inconsistent, especially, with the platform of 1876, but it is doubtful whether upon argument the business men and laboring men of the manufacturing States could have been aroused, and except for their active efforts this election would have been lost to the Republican party. It might have been argued, it would have been argued, that it was the purpose of the Democratic party to frame a tariff system for revenue only; but such arguments would have been fruitless of results in presence of counter-arguments made by Democratic presses and orators, and based upon the most recent declaration of the party. In human affairs blunders are often closely allied to crimes, and the Democratic party has now lost by a blunder what it otherwise would have gained by crime. Possibly, it may be urged that the declaration at Cincinnati was but the honest expression of party opinion, and that the declaration would have been made at the cost even of the Presidential election. This theory is refuted by the anxiety exhibited by Senator Randolph, and by General Hancock himself, to escape the political consequences of the declaration made at Cincinnati.

Ostensibly General Garfield has been elected upon the tariff issue,

but in reality the tariff became an issue upon the declaration made at Cincinnati, only in consequence of the outrages in the South by which the majorities in Congress had been transferred from the Republican to the Democratic side. Except for this circumstance, the preponderance in favor of Republicans in Congress and in the States would have been such that all anxiety for the protective system would have been quieted.

As the tariff, however, has been in the popular mind a leading issue in the canvass now closed, it must be a leading topic of thought and of legislation by the incoming Administration, until the system is perfected and firmly established in the policy of the country.

But it is to be said that the present tariff, as a system, was not at issue. The principle of protection, however, was at issue, and the verdict was in favor of the principle. No one contends that the system is perfect. The first duty of the Republican party, then, is to perfect the system, so as to provide revenue and furnish protection to our industries. The principle found in the existing system is to rule in any new bill that may be framed. The present law provides revenue and furnishes protection. The two purposes are not inconsistent, as the experience of the country for eighteen years demonstrates, and, with Republicans, protection is not the least important of the two features of the system.

It is not enough, however, to maintain the present system, or to provide an improved system based upon the same principle. Whatever peril may menace the existing tariff is due to a solid South, and a solid South will be a continuing menace to any system designed to protect American industry.

The South—that is, the dominant party in the South—is opposed to a protective tariff upon two grounds : First, the ancient doctrine of State rights is a denial to the General Government of any power under the Constitution to promote industry, encourage development, or stimulate prosperity in the States. In the opinion of the South, the duty and the power of the Government are limited to the enactment of those laws necessary to its existence. The support of the army, the navy, the judiciary, and the Post-Office, and the collection of the revenues necessary therefor, are the chief if not the only duties of the General Government.

The South therefore is opposed, upon principle, to a revenue system designed to protect and encourage the industry of the States, or which in any way recognizes such aid and protection.

Secondly, the advanced industries of the country are in the North, and to the ancient sectional hostility existing in the South is added the bitter recollection of the recent contest and its disastrous results. The prosperity of the North, its rapidly increasing numbers, its wealth augmenting beyond the dreams of avarice, its diversified and growing industries, are but so many evidences to them of Northern greatness and of Southern inferiority. Educated in the dismal doctrines of State rights, they find no satisfaction in any prosperity except that of and by the State. It is not enough, then, to secure the passage of another bill which shall be more perfect as a system than the present law; for, as long as the statutes of the country recognize the doctrine of protection to domestic industry, those statutes will be assailed by the Democratic party, and as long as the South remains solid those statutes will be menaced by uplifted, hostile hands.

If, then, the Republican party is not moved to break the solid South by any higher motive than that of self-interest, it is under an imperative necessity to do so in its capacity as preserver and guardian of the industries of the North.

How can this be done?

It is to be said, first of all, that whatever is undertaken must be undertaken as an Administration measure; and, being an Administration measure, it will be accepted and treated as a party measure. This is not a misfortune. Non-party measures have proved, usually, unwise measures.

Mr. Clay's compromise tariff of 1833 and the slavery compromises of 1850 are memorable instances of ill fortune waiting upon non-party legislation touching great public interests. Of the policy of the Administrations of Jackson and Van Buren, the Independent Treasury system is the only remaining monument, and this from first to last was advocated on one side and resisted on the other as a party measure.

As party measures, the Republicans may claim the prosecution of the war to a successful termination, the emancipation of the slaves, the constitutional amendments, the tariff system, the issue of greenbacks, the funding of the public debt, the establishment of the national banking system, the resumption of specie payments, and many other measures of secondary importance.

In fine, all or nearly all the measures which now contribute to the public prosperity were introduced, advocated, and defended as party measures. Usually, what is done by a party is done under a

deep sense of responsibility, and in the presence of an alert, scrutinizing, and, it may be, unscrupulous opposition.

Under such circumstances the wisest counsels are sought and the most careful deliberation is practiced. The caucus is often a more conservative body than the legislative assembly itself, and many an unwise scheme has been consigned to oblivion by party councils that might have commanded a large non-partisan support.

It may well be said also that the time is past for concessions, compromises, conciliation. A policy of concession, of compromise, of conciliation, will no longer be even tolerated in the Republican party.

The canvass has been conducted upon the ground occupied by the earnest men of the party, and the success of the party is due in the largest degree to the presence and active labors of General Grant, Senator Conkling, and their friends and supporters. Our policy toward the South in its present political attitude must be determined, bold, aggressive. The South respects power, and it respects those who possess power and exhibit courage.

We demand a full, free vote and an honest count. Upon this demand is the issue, and the duty resting upon the Republican party is to extort from the Constitution every legitimate power for the enforcement of this demand.

Each House of Congress is the judge of the election of its own members, and a practicable and not unlikely a sufficient remedy for the outrages upon the ballot-box in the South may be found in the consistent, speedy, and resolute rejection of claimants to seats whose record is tainted with fraud or stained with crime. Whenever it is understood that no person can be admitted to a seat in the Senate or House unless the record of his election is clear, the character of the canvasses in the Gulf States will undergo a change. It is too much to anticipate a free vote and an honest count at once, but new methods would be substituted for the existing ones, and the change could not be for the worse. Whenever it is understood in the South that an election by fraud or force will not count in the government of the country, the South will be unrepresented in part. Democratic districts and Democratic States will be represented, and Republican States and Republican districts will be unrepresented. Thus something will be gained.

As recently as 1868 the Democratic party denounced the thirteenth and fourteenth amendments to the Constitution as null and void, and their recognition of them in later days has been only tacit

and general. Uniformly they have resisted, denounced indeed, every attempt by legislative action to render the three amendments vital and effective in the policy of the country. From our opponents nothing can be expected; but, whenever the Republicans can command a majority in both Houses of Congress, there ought to be no delay in passing laws for the supervision and protection of the ballots in the election of members of the House of Representatives, and of electors of President and Vice-President.

Moreover, the Senate must assert and exercise its undoubted constitutional prerogative of inquiring into the election of legislative assemblies, whenever the question is raised in deciding the right of a claimant to a seat in the Senate. Of course, the Senate of the United States has no power over the organization of a State Legislature; but if, upon inquiry, it finds that a State Legislature is an unlawful assembly, and to such an extent as to invalidate its action, then a person claiming a seat in the United States Senate by virtue of the vote of such a body ought to be rejected. In other words, the claim of a body of men in a State to be the Legislature of that State does not preclude inquiry by the Senate when it is called by the Constitution of the United States to decide upon the election, qualification, and return of its own members. Under the Constitution the right of inquiry knows no limits; and the exercise of that right is within the discretion of the Senate.

Since the war the Democratic party has shown a bitter hostility to the army. In all British history the army has been subject to call by the civil magistrate, as a part of the *posse comitatus*, for the preservation of order and the enforcement of the laws. This conservative power in government is now denied to the civil magistrate by the Democratic party, and for the single reason that it may be used to protect the ballot and to collect the revenue on whisky. It is no part of our purpose to control or influence elections by military power, but the civil magistrate should have the means within call of protecting the ballot and keeping the peace. The bayonet is not the best instrument for collecting ballots, it may not be even a proper instrument; but when the case arises, and the case has arisen in nearly half of the States of the Union, that the bayonet must be employed to protect the ballot or republican institutions must disappear, there ought to be no hesitancy in using the bayonet to protect the ballot. With the ballot free we can control the bayonet, but when the ballot is suppressed the bayonet is supreme.

But there remains a constitutional power—a power as yet un-

used, a power whose nature and faculties have not received full and final judicial interpretation, but a power adequate, beyond question, to any and every assault that may be made upon republican government in the several States.

By section 4 of Article IV of the Constitution, it is provided that "the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them from invasion."

This guarantee to the States of a republican form of government is coupled with the highest pledge that can be made by one body-politic to another — protection against invasion. The two pledges considered together are a guarantee of the existence of the State, and of its existence as a republic.

The Supreme Court has given an opinion that the guarantee is to the inhabitants of the respective States, and not to the governments of the States. In considering the varying meanings of the word "State" in our Constitution, the Court say: "There are instances in which the principal sense of the word seems to be that primary one to which we have adverted, of a people or political community, as distinguished from a government. In this latter sense the word seems to be used in the clause which provides that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion. In this clause a plain distinction is made between a State and the government of a State." (Texas *vs.* White, 7 Wallace, 721.)

When we consider the nature of this obligation, its place in the Constitution, and its necessity as a means of protecting the Union itself from undermining and destroying processes, we can entertain only contempt for the doctrine that when the system in a State is republican there can be no further inquiry by the United States, and that the national Government must ever remain a silent spectator of the total subversion of the system in practice. If this be so, it is then only necessary for a body of usurpers in a State to retain a republican form of government, and then proceed to rob the people of every right appertaining to a republican system. And further, if this be so, then the guarantee is to the authorities of the State and not to the people. The guarantee of a republican form or system of government is nothing to the people living under the system unless the administration of it is republican also. Indeed, the guarantee of a republican form of government, when that government has

been seized by usurpers and the people are deprived alike of the rights and of the protection which a republican government is designed to secure, makes the guarantee itself the shield of the oppressor and the menace of the down-trodden.

The guarantee is, then, not of the *form* only, but of the *substance*, the *thing* itself, as well. The republican government guaranteed is a government existing and operating in harmony with the American idea as set forth in our Constitutions, both State and national, or accepted universally and by many successive generations.

Some of the essential features of a republican form of government are these: 1. All just powers are derived from the consent of the governed. 2. The exercise of those powers is by representative men selected by the people, either directly by election or indirectly by appointment. 3. The recognition in the Constitution of the existence of a body of men entitled to the elective franchise. 4. Efficient means for the general and equal enjoyment of the right by all of the class so recognized. 5. Obedience to the will of the majority when, agreeably to the Constitution, that will has been ascertained.

The Congress, including the President, is the United States, for the purpose of making good the guarantee contained in the Constitution; and when in any State the essential qualities of a republican government are wanting, or the people are generally and systematically deprived of those rights and privileges which are elemental in our republican system, and when all milder means have failed to remedy the evils, it then becomes a duty to assert the power of the United States under the clause of the Constitution quoted, and, by such means as may be adequate, secure to the people a republican government as a practical, existing fact.

Although many years have passed since the outrages in the South assumed national importance, there is still ground for hope that order may be reëstablished, and the equal rights of citizens everywhere recognized; but it is well in this exigency to assert the existence and unfold the nature of a power adequate to the evil we now confront.

The Republican party bears no hostility to the South as a section. If we are a sectional party, and in one sense we are a sectional party, the circumstance is due to the fact that, in the South, the Republican forces are in a state of duress, and their voice is nowhere heard, nor is their power anywhere felt.

When, however, there shall be freedom of speech, of the press,

and of the ballot, the Republican party will exert every constitutional power for the renovation of the waste places in the South. Whatever can be done, under the Constitution, for the improvement of its rivers and its harbors, for the rebuilding of its levees, for the development of its agriculture, for the extension of its manufactures, for the enlargement of its educational facilities, will be done by the Republican party without delay and without grudging. But all this can be done, and will be done, for those communities and States only where the equality of all men before the law is a living, practical fact. The two great duties of the Republican party are the protection of the rights of laboring men in the South and the protection of the industry of laboring men in the North. In fine, the two duties are co-related. The exodus teaches that injustice in the South is destined to subject the laborer in the North to an unnecessary and unhealthy competition, while the South is at the same time deprived of the labor essential to its own prosperity and to the prosperity of manufactures in America and Europe.

GEORGE S. BOUTWELL.

DISCOVERIES AT OLYMPIA.

THE history of the Hellenes is distinguished by a twofold trait, namely: on the one hand, a lively sentiment of national unity, as against all other nations; and, on the other, a strong sense of individuality in the several communities and cities. The sentiment of national unity found expression in the ancient leagues or amphyctioniæ, by which the Hellenes were welded into one people. When these had lost their political significance, the festivals of the gods remained as the most effectual bond of union. Now, of all these festivals none was of greater importance for the history of the Hellenic race than that of Zeus, celebrated in the valley of the Alpheios, where the river issues from the Arcadian mountains, and where, at the foot of the heights of Olympus, lies a plain equaled by but few in Greece for extent, accessible from the interior, as also from the neighboring coast and from the transmarine colonies in the west. Yet the national importance of Olympia resulted not from its situation, but from a series of historic developments.

On the west coast of the Morea we find after the Doric migration two ancient states standing side by side, namely, Pisa, on the Alpheios, and Elis, on the Peneios, which latter stream waters the lowlands to the north. These two neighbor states, held together as they were in peace by their common worship of the goddess Hera, became still more firmly united when, impelled by a Delphic oracle, certain Achaian families settled at Pisa, and there introduced the worship of Pelops, whose rank among heroes was as that of Zeus among gods. In the plain before the gates of Pisa there was an oracle of Zeus, much frequented by strangers. It was thus that the town first acquired prominence; and at one time Elis and Pisa honored Olympian Zeus by holding festivals and games in common. But their pacific relations were disturbed by the dissensions which broke up the Peloponnesian states into distinct groups. Elis allied

itself to Sparta, which thus strove to extend its influence over the states on the west coast. Pisa united with Arcadia and Messenia. After a stubborn resistance, the Pisans were finally vanquished (about 600 B. C.), their city destroyed, their commonwealth annihilated, and ever afterward the Eleans enjoyed the exclusive right of conducting the festivals, while Sparta, as the chief power of the peninsula, insured to the whole region the inviolability of its frontiers. Olympia became a place of meeting for all the Peloponnesus; and as the Peloponnesus, down to the time of the Persian wars, led all Greece, Olympia came to be the center both of the mother-country and of the colonies. Every five years the envoys of the Eleans went forth to proclaim the festival, which was to begin at the first full moon after the summer solstice; and ambassadors, spectators, and athletes came, in answer to the summons, from every part of the world inhabited by Greeks. The Eleans made it a point of honor to add continually new attractions to the national festival, and to decorate the site on which it was held with the statues of victors, votive offerings, and monuments of every kind. Every Hellenic community, at home or abroad, desired to be represented here; and, when Hellenic freedom was extinguished, the conquerors of the Hellenes strove to efface the memory of the struggle by making a show of Hellenic culture at Olympia. This was the policy of both the Macedonians and the Romans. The Roman emperors looked on Olympia as the place above all others where Hellenic and Italian civilization could best be amalgamated. The Olympic games survived the Christian era, nor was it till the close of the fourth century that they ceased. In the year 395 the Emperor Theodosius decreed their discontinuance; in the following year came the Goths under Alaric, who utterly destroyed here a very forest of bronze statuary. The buildings still remained intact, but their destruction began when the Byzantines, as a defense against a new barbaric invasion, built a fortress inclosing the temple of Zeus, taking the materials from the still standing edifices. Whatever buildings were then left erect were soon afterward overthrown by earthquakes in the fifth century; finally, Olympia was buried beneath mud and *débris* by the overflow of the rivers and the washing of the hillsides.

In modern times the plain has been cultivated in vineyards and corn-fields, but uninhabited; and so it came about that, among all the famous sites of the ancient world, Olympia was one of the few where no new settlement interferes to prevent a thorough exploration of the ground. But nowhere else can you find so many remains of

Grecian civilization belonging to every age and to every region. It was on this account that, from his early years, it was a passion with Winckelmann to explore Olympia.

The first attempt was made by the French, when, after the battle of Navarino, Marshal Maison's troops occupied the peninsula. Then it was (May, 1829) that those remains of statuary were found which are to be seen in the Louvre. The results then obtained insured in advance the success of the thorough exploration which began in 1875 under the auspices of the Imperial German Government. In October of that year the temple of Zeus was brought to light, and for the five years that have since elapsed, during the months (October to May) when work can be carried on, the exploration has proceeded, at an annual expense of 150,000 marks; for last year the Emperor allowed an additional grant of 80,000 marks. Let us now see what is the total result in this year 1880.

Olympia consists of two very distinct parts, namely, the precinct of Zeus, and the edifices lying without the same. The precinct of Zeus, known also as the *Altis*, and the Sacred Grove, is a walled inclosure, forming an irregular quadrangle, with a mean length of 4,000 feet from east to west (parallel with the river), and a mean width of 2,000 feet from north to south (from the foot of the mountain to the river). Within this inclosure stood the altars, temples, sanctuaries, treasuries, and other buildings for the use of the officials, and for the reception of the city's guests attending the festival. The space not occupied by these structures was filled with statues and votive offerings, which, as time went on, were multiplied till at last only the roadways traversing Altis were free. Pausanias has left us a precise description of Altis (written A. D. 173), which is still extant.

Olympia now lies before us like an open book. We know more about it than about any other spot in ancient Greece. The Abbé Barthélemy might now, with full assurance, point out to the young Anacharsis the notable monuments of the precinct of Zeus.

This precinct of Zeus may be considered as divided into two parts, a northern and a southern. In the southern portion the temple of Zeus forms the central point, around which are grouped the lesser monuments. The temple was never entirely covered with *débris*, but not till now could its whole ground-plan be seen. It was a building in character like the Parthenon, but still more imposing, for it had only six columns on its narrower façades, making its architrave blocks so much more massive. There still remains in

the vestibule of the temple the ancient mosaic pavement, composed of pebbles of different colors from the Alpheios, representing Tritons and Cupids. We can measure exactly the cella; we recognize distinctly the site where stood the colossus erected by Phidias; we see the traces of the interior columns, the supports of the galleries, to which wooden stairways led up. The material of the temple was a friable shell limestone coated with white stucco of the finest quality. The molding flute with lions' heads spouting water, as also the flags forming the roof of the temple, were of Parian marble. In Roman times the edifice underwent a thorough restoration, the material employed being Pentelic marble. This work of restoration can be distinguished both by the material and by the marks made by the workmen on the blocks of stone. Still, the edifice as a whole is a monumental example of a Doric temple, and it is of the highest value for the history of that style of architecture. It is the work of Libon, a native artist, and dates from a time only twenty years prior to the building of the Parthenon. We find here grander proportions, a more admirable earnestness, a purer Doric, than in the more celebrated temple at Athens.

Special interest attaches to the sculpture of the temple—the work of masters known to us through Pausanias, who describes this edifice more minutely than any other in Olympia. Paionios represented on the eastern pediment the contest between Oinomaos and Pelops in twenty-one colossal marble figures, with Zeus, as judge of the battle, in the middle. These figures have all been discovered in a more or less perfect state of preservation; eight still have their heads. This group by Paionios in the eastern pediment, flanked by the two river-gods, Alpheios and Kladeos, in the outer angles, is full of gravity and repose. The western pediment, which was the work of Alkamenes, exhibited more action. Here, again, a god stood in the middle of the group—the youthful Apollo, who intervenes amid the strife that has arisen during the marriage-feast of Peirithoös. Drunken Centaurs are carrying off the women, and the Hellenes are coming to the rescue. On each side of Apollo we have three groups of combatants; prostrate on the ground are female slaves lamenting. The outer angles are occupied by reclining nymphs. Here, again, the number of figures is twenty-one, and of thirteen of them the heads remain. Notwithstanding the fearful ravages of time, these compositions are still intelligible, and capable of restoration in all essential particulars. The pediments of temples are the grandest products of Hellenic sculpture; therefore

the discovery of these two pediments marks an epoch in the history of ancient art. They date from the age of Phidias, and are incomparably superior to anything of the kind before known.

Besides the pediments we have the metopes of both ends of the temple sculptured in *alto-rilievo*, and representing the twelve labors of Herakles—six groups standing over the eastern entrance and six over the western. These reliefs were the last to fall down, and hence fragments of all twelve have been found on the temple-steps. Of some of the groups nearly all the fragments have been found, especially the one representing King Atlas as bringing to Herakles the apples of the Hesperides; Herakles in the mean time supporting the vault of heaven, assisted by one of the Hesperides, who stands behind him. The battles with the Stymphalian birds, the Cretan bull, and the Nemean lion, are substantially perfect.

These *rilievos* are treated in vigorous style, and at one time we thought we saw in them the work of the Peloponnesian sculptors who wrought here before Attic art had found entrance into Olympia. But, having since had opportunity for a closer study of the sculptures of the temple, I now hold it to be beyond question that these are of the same school to which the sculpture of the pediments belongs. Beyond a doubt, the recently discovered head of the youthful Herakles setting his foot upon the lion is a work of Attic art.

Very widely divergent opinions have been expressed about the place to be assigned to the sculpture of the temple in the history of art. In fact, it is a problem of great difficulty and of high interest, the complete solution of which will be reached by degrees. In my opinion it was to the earlier school antedating Phidias, the school of Kalamis, that the governors of the temple of Olympia turned when they bethought them of treating with foreign sculptors concerning the glyptic ornamentation of the edifice. These artists held to Phidias the same relation that Perugino does to Raphael; and they retained their style even after the more recent master had introduced a new epoch. Thus we can explain the rigid symmetry that characterizes Paionios's pediment, while the impassioned groups of the west pediment show what a fermentation was going on in plastic art, for as yet artists had not learned from Phidias how to combine harmoniously repose with action.

The sculptures at Olympia are part and parcel of the history of art. The Apollo in the middle of the western pediment shows how the artists of the time, in representing the gods, still scrupu-

lously clung to ancient traditions, whereas in portraying men and Centaurs they exercised perfect freedom. Still from the hand of Paionios we have, in the colossal figure of Nikè, a work of the utmost boldness. The goddess is descending from on high, to publish to the assembled Hellenes the achievements of the Messenians settled at Naupaktos. This figure is the only monument of classic antiquity we possess of its kind. It was found *in situ*, its pedestal with its inscription perfect. From this masterpiece of Paionios we see how rapidly plastic art was then developing.

The second temple in the order of size, though prior in time, is the Heraion, situated in the northern half of the Altis—a Doric temple, with six columns in front and sixteen on the sides. It has thrown new light upon the subject of the ancient temple architecture of the Greeks. Here is a building originally designed for the reception of votive offerings, and which accordingly had in the interior two rows of small chambers, like chapels. The entrance was in the southern long façade. In the lapse of centuries it was completely transformed, and we can see how the original wooden pillars were, one group after another, replaced by columns of stone. The entablature was probably always of wood, hence the extraordinary width (considering that the columns are Doric) of the intercolumniation of the portico. Henceforth the history of Hellenic architecture must begin from the temple of Hera at Olympia. Finally, the ground-plan of a third temple, surrounded by columns, has been discovered. This, the Metroön, or sanctuary of the mother of the gods, stood in the northern half of the Altis, just below the terrace of the treasuries. This building we must regard as simply a place for keeping votive offerings.

There were other buildings erected specially for the purpose of holding these votive offerings, namely, the *thesauroi*, or treasuries. Such buildings were familiar to us already from descriptions of Delphi and Olympia, but none had ever been discovered.

Now the entire row of treasuries described by Pausanias is exposed to view, their main features preserved so far as they escaped ruin in Roman times. They were edifices built after the manner of temples, and two of the more important of them—namely, the treasury of the Syracusans, erected by them after the siege of Carthage, and that of the Megareans — are easiest recognized. The latter building had one of its pediments decorated with a representation of the war of the giants, and of these sculptures considerable remains have been found. They display a style more ancient than

that of the Æginetæ, and add materially to our knowledge of temple sculpture. Among the treasuries must also be classed the Philippeion, the rotunda of marble built by Philip of Macedon after the battle of Chæronea, and which was filled with statues of his family. This is the oldest Grecian round temple whose date we are able to determine. Its ruins are in a tolerable state of preservation, and lie to the west of the Heraion, while to the east of the same the remarkable structure built by Herodes Atticus has intruded itself among the treasuries. It occupies a semicircular niche cut into the foot of Mount Kronion, and was designed to hold a series of twenty-one marble statues representing the families of Antoninus Pius and Herodes Atticus. In two projecting round temples were statues of Antoninus and his wife Faustina. In front of this building there was a large walled basin, from which spring-water from the hills in the rear was conducted through the Altis. On the margin of this basin stood the figure of a bull, on which Regilla, wife of Herodes, had an inscription carved, to the effect that she, as priestess of Demeter, had consecrated the water-works to Zeus. The building was an imposing structure, erected in the year 170, but it was impossible to complete it without injury to the treasuries on each side. There is no doubt that one of the most notable buildings of Olympia, the double treasury of the Sikyonians, was destroyed to make room for it.

Midway between the temple of Zeus and the Heraion was the precinct of Pelops, where that hero was worshiped. The entrance was from the east, because offerings were made to Pelops toward the setting sun, he being a denizen of the nether world. This place retained all the simplicity of the olden time, and not till a late period in its history was there an entrance-hall built at its one gate; the foundation of this still remains.

To the east of the Pelopion we see the ruins of the altar of Zeus —an elliptical ring of unhewed stones occupying the center of the Altis. The whole worship of Zeus had its focus here. Around this altar those who went up to the festival were wont to assemble; and the priests, in offering sacrifice, noted the omens, which were interpreted by them as oracles. Another famous altar was that of Hera, to the south of the Heraion. In the soil all round this altar was found a vast quantity of votive offerings, in terra-cotta and bronze, a fact that plainly shows that here, and not in the temple, the worship of the gods was centered.

Finally, in the extreme northwest corner are the foundations of

the Prytaneion, or town-hall, of Olympia, with the altar of Hestia, the sacred hearth of the Altis, and with its great banqueting-hall where the victors were entertained on the evening of their day of triumph.

The open spaces between the buildings were filled with statues. These were of two kinds, either votive offerings of cities or individuals, erected here as in the most celebrated place of assembly for the whole Hellenic world, or statues of men who had won the victory of the Olympian contests. These statues, which with few exceptions were of bronze, were destroyed by fire at the Gothic invasion; the stone pedestals, with their inscriptions, were overturned, deported, and destroyed in Byzantine times, when the temple of Zeus was converted into a fortress; still a few of them remained near their original sites; among them some of those described by Pausanias in his "Itinerary." Hence it is possible for us to make out here and there the original disposition of the statues, and to determine the routes which once traversed this forest of statuary. The main route lay through the pompic (processional) gate on the south; around the altars spaces were left free for the people to assemble. Inside of the wall, on the east side, was a portico one hundred metres long, the Echo Hall, the northern end of which faced the last of the row of treasuries; at its southern end it abutted on the Leonidaion, a building erected by one Leonidas for the entertainment of distinguished guests, while the great mass of the people camped in tents around the walls of the Altis.

But the ground outside of the Altis was also covered with buildings of all sorts. Eastward lay the Stadium, accessible through the "private" entrance lying between the Echo Hall and the most easterly of the treasuries. This gave admittance to the judges and the contestants at the beginning of the games. It was an arched passage leading to the starting-place for the runners; and the furrowed stones on which the runners took their places are still in place, as also, at the opposite end, the goal. All the other contests were also carried on here, except the horse and chariot races; for these the Hippodrome was intended. It lay to the south of the Stadium, but the overflows of the Alpheios seem to have destroyed all traces of it.

To the south stood an edifice which consisted of two aisles lying in an east-and-west direction, with a quadrangular court in the middle. These two aisles were separated by a central line of columns, and were terminated at their western ends by a round niche. This

building is nearly contemporary with the temple of Zeus. It is supposed to have served as a meeting-place for the Olympic Council, while the quadrangular space in the middle was, in all probability, the sanctuary of Zeus Horkios, before which the contestants had to make oath that they would strictly observe the laws of the contest. The building is one of the most important remains of state architecture in the fifth century. To the south of the Council-House was a hall fronting on the great highway leading up from the Kladeos to the principal entry.

Between the Kladeos and the Altis on the west was a series of magnificent buildings, of which, before our excavations, one only was visible, namely, that on a part of whose foundations the Byzantine church was later erected. It was apparently designed for holding great assemblies. To the north of this is a circular building in which was found an altar bearing an inscription on a layer of stucco, which from time to time was renewed. We detached these layers, one after another, and on each read a dedication to "The Hero," never to "The Heroes." The branch of bay that adorned its front points to a *heros* of divination. Such, above all others, in Olympia was Ianos, and next after him Klytias. The Ianidæ and the Klytiadæ were the two famous prophetic (or priestly) families of Olympia, and hence we have the best ground for fixing here the seat of prophecy which first gave importance to Olympia. The prophets of Olympia belonged to the priestly college, the members of which we find enumerated in a great number of inscriptions. They remained year in year out in Olympia to attend to the affairs of religion. Directly in front of the Heroön, to the east, are the foundations which supported a group of dwellings built round a courtyard. It is probable that the priestly functionaries lived here, and that the large edifice to which the Byzantine church succeeded was the Theokoleon, the assembly-hall of those functionaries, where the festival embassies from other cities were entertained.

On the north lay the Palæstra, a court surrounded by Doric columns, where the wrestlers and pugilists practiced, while alongside were the halls where rhetoricians declaimed. To the north of the Palæstra were the race-courses, where the runners practiced.

East of the Byzantine church, a large quadrangular building has been unearthed. Like the Palæstra, this had in its center a court surrounded by columns. This court was laid out as a garden. This whole building, which had porticoes also all round, we call the Grand Gymnasium. It was reconstructed in Roman times; in its

day it must have been the largest and most magnificent pile in Olympia.

All doubts are not yet dispelled touching the original use of many of the buildings; nor indeed are the excavations as yet quite completed, for the summer heat prevented us from laying bare at the Byzantine church the foundation walls there discovered. Work will be resumed at that point next October. But the great object of the excavations has been attained. The Olympian Altis, like a sunken island, has again emerged; and, though the buildings are not so well preserved as those of Pompeii, nevertheless the elements of the ancient architecture have been found in such perfect condition as to enable us to reconstruct it.

It will readily be seen that the discovery of Olympia is an event that marks an epoch in our knowledge of Hellenic antiquity: for many a year science will be occupied in gathering this harvest. I can here only allude briefly to a few of the many newly discovered monuments reproduced in the four volumes of the "Ausgrabungen von Olympia," and discussed in the "Archäologische Zeitung," of Berlin. The most trustworty of all witnesses of the past are inscribed monuments. We have found, in all, upward of four hundred inscriptions, on bronze, stone, and terra-cotta; on pedestals, architraves, and columns; on helmets, shields, and lances; on reliefs, etc. A large proportion of these refer to victors at Olympia, and these teach us much, both in poetry and prose, about the different sorts of games. Other inscriptions were set up here simply because Olympia was the center of Greece—complimentary inscriptions of all sorts, treaties, arbitrations. These monuments belong to the most diverse epochs, and to every region wherever Greeks lived. Hence we find very great variety in the forms of letters and in the language: in fact, Olympia has proved to be a rich mine of information concerning the Hellenic dialects. At the same time, the inscriptions afford us data for the history of the period from the seventh century B. C. down to Byzantine times. As regards the science of art, a vast amount of material has been won for architecture. We are beginning to understand temple architecture in its historic evolution. Of certain architectural forms peculiar to Greece, as the treasuries, many examples are here seen. We have here before our eyes the first Greek palæstra, of which before we possessed only a very obscure description by Vitruvius. So too we have here the race-courses of the ancients clearly identified, both the tracks used for practice and the Olympic Stadium itself, with

its main entrance, and the very stones that marked the starting-point and the goal. Formerly no specimen of the ancient Greek town-house or Council Hall was known to exist; but in the newly discovered Olympian Buleuterion we have a structure unique in its kind, dating from the earliest times. The Macedonian epoch is well represented by the rotunda of King Philip, and the period of Alexander's successors by the columns which supported the effigies of the Ptolemies. On all sides are seen Roman reconstructions of Grecian edifices, and we can clearly distinguish, e. g., in the temple of Zeus, Roman restorations, from the workmen's marks. The building erected by Herodes Atticus is wholly original in its combination of a water reservoir with an *exedra* and two projecting round temples. Of special interest, as regards the temples and temple-like buildings, is the fact that here the terra-cotta ornamentation remains in an excellent state of preservation, and is represented in a great number of specimens.

Above all, much light is thrown upon the relations of architecture and sculpture. Instance, the *rilievo* groups in limestone that filled the pediment of the Megarean treasury—a work of antique art belonging to an earlier period than the Æginetan pediment. Instance again, the metopes of the temple of Zeus, some of them very well preserved. These sculptures are in the transition style, and are fit companion-pieces for the metopes of the so-called temple of Theseus at Athens. Finally, there are the colossal groups on both pediments of the temple of Zeus. The artistic restoration of these works and their scientific discussion will for a long time give occupation to archæologists; at the same time our knowledge of Hellenic temple architecture will be established on a new basis.

In addition to all this, we have acquired a vast amount of fresh material for the history of art. The Nikè of Paionios, with its pedestal and inscription set up by the Messenians, and now found in its ancient place, is one of the most remarkable works of the old sculptors, grand and bold in design, masterly in execution, and of the highest significance for the development of the Nikè type: it is a new and striking monument of the plastic art of the fifth century B. C. The fourth century is represented in the Hermes of Praxiteles, discovered in the temple of Hera: this is the first original work of that sculptor, who is confessedly the foremost master of sculpture in marble. Further, it is the best preserved work of classic art that we have, and henceforth it will form the groundwork of all disquisitions upon the art of the fourth century. This

one work abundantly repays the expense and labor of five years, even had nothing else been found. But, further, the Attic art of Roman times is here represented in many noteworthy monuments, and the tradition of art history receives many essential additions. Masters whose names have long been known, as Ageladas, Pythagoras, Glaukia, Nikon, Polykletos, Daidalos, Naukydes, Paionios, are now for the first time brought before us in monuments dating from their own period; while many a great artist, before unknown, now emerges from obscurity. So, too, of the mode of erecting antique monuments we have many examples: we see the various forms of pedestals, their arrangement, and their inscriptions both in prose and poetry.

Finally, we see how the ancients employed different materials in their works. In the lowest strata we find quantities of bronze figures which, as being the votive offerings of poor folk, are rudely fashioned images of men and heroes, but still they are of value, as evidence of a primitive art industry. There are other bronzes that possess artistic merit; these exhibit the most ancient styles of ornamentation in lines scratched on the surface, or in hammered bas-reliefs. A very interesting specimen of this class of objects is a well-preserved plaque in *rilievo* exhibiting, in four successive fields, two animal groups—the pursuit of the Centaurs by Herakles, and a winged Artemis as a lion-tamer. In this work we see the dependence of Grecian upon Assyrian art, and at the same time the beginning of its emancipation. The work belongs to the seventh or the eighth century B. C.

In Elis, where marble is scarce, bronze and terra-cotta were of special importance. We find terra-cotta figures of the most primitive kind, also terra-cotta statues of the fifth century. Stone, too, of inferior quality was employed—limestone, which was artificially colored. A good deal of material has been collected having a bearing on the polychromy of ancient architecture and plastic art.

It is a mighty labor that has been imposed upon science by these five years of research at Olympia: the scholars and the lovers of art in every land where Grecian culture is prized will have a part in accomplishing it.

ERNST CURTIUS.

RATIONAL SUNDAY OBSERVANCE.

THE first thing to be said about the observance of the Sabbath is that, among Christians, there is no Sabbath to be observed. When people talk about the Sabbath, they are, for the time being, Jews. Only in England and America, among the descendants of the Puritans, and only in religious phraseology, is Sunday called the Sabbath. Somehow, in this country, it is supposed to be a little more religious to say "the Sabbath" when Sunday is meant. A man, in speaking to his neighbor in the street, says, "Sunday," but in speaking to his minister he says, "the Sabbath." I should like to send these Sabbatarians to Italy, where the name of Saturday is "Il Sabbato" and that of Sunday "Il Domenico." If, in that country, they advertised their meetings for "the Sabbath," as they do here, they would find that every one who came would come on Saturday.

This is more than a question of words. When a certain portion of the Christian Church constructed the theory that the fourth commandment was of perpetual obligation, only that the observance of the Sabbath had been transferred from the seventh to the first day of the week, their object was to give a sacred obligation to the performance of certain ceremonial duties, and to make of Sunday-worship a kind of sacrament. This has been taught and accepted among the descendants of the Puritans down to the present time. Men have abstained from their common labors, and have attended public worship, because they regarded this as a religious duty, done not for their own benefit but in obedience to a divine command. And no doubt this theory of Sunday observance was well adapted to cause a universal and strict obedience to what God was believed to command or to forbid on this day. When we speak of God's day, God's house, and God's Word, we give an authority to Sabbath-keeping, Church-going, and Bible-reading, which

they would not otherwise possess. Take away that authority, let it be understood that we go to church for our own sake and not to please the Almighty, and that we have a right to do anything on Sunday which rests and refreshes body and soul, and no doubt there will be a great falling away from what is called "the religious observance of the Sabbath."

This may be a bad thing, or it may not; but, whether the results of telling the truth seem to be good or bad, the truth ought to be told. Yet, when the Lord's day is placed on its true foundation, it will probably be better kept than it is now. The people of New England have been trained up in the belief that Sunday was the Sabbath, and that God has commanded it to be kept holy for ever. At first, and for a long time, the result of this teaching was, that every one abstained from work and amusement, and every one who was able went to church or meeting. But this is not the case now, even in New England. The statistics of church-going show that only a small part of the community, at least in large towns, attend public worship, and that to many it is a day of idleness or of pure amusement. The old belief in the Sunday as the equivalent of the Sabbath is gone, and can not be restored. Would it not be better to put it on another and better foundation; to elevate it from a Jewish to a Christian institution; to show that it only becomes God's day by being man's day? If this is true, it will be sure to be also useful; for the truth is a tree which always brings forth good fruits.

Scholars are now generally agreed that the Sabbath obligation was *not* transferred by Christ or his apostles to the first day; that there is not in the Christian Scriptures a single command to keep the Sabbath in any form or on any day; and that nearly all that is there said about the Sabbath is to deny its obligation. Jesus himself openly and repeatedly violated not only the Pharisaic Sabbath, but that of Moses. When reproved for it, he did not defend himself on the ground that he was not breaking the Mosaic Sabbath, but rather because he had a right to work on that day as the Son of man, the representative of humanity. He did not say, "The Son of God is Lord of the Sabbath," but "The Son of man is master of the Sabbath, since it was made for the good of man." It is also noticeable that he took away the very foundation of the Jewish Sabbath as a positive religious ordinance, by denying that God *ever* rests. "My Father works hitherto [down to this time, always], and I work." Jesus plainly taught that the mode of observing

even the Jewish Sabbath was to be determined by human uses; that whatever was really good for man might be done on that day. It is not necessary to quote the passages in which Paul expressly denies the binding obligation of the Jewish Sabbath. The latest authority (Smith's "Dictionary of Christian Antiquities") says that St. Paul's words (Coloss. ii, 16, 17) are "absolutely decisive," as well as those addressed to the Galatians (Gal. iv, 10), that "the obligation to observe the Sabbath according to the Jewish law was never, in any sense, binding on Christians." The writer of this article (Rev. Alfred Barry, D. D., Principal of King's College, London, and Canon of Worcester) also says: "The notion of a formal substitution, by apostolic authority, of the Lord's day for the Jewish Sabbath, and the transference to it, perhaps in a spiritualized form, of the Sabbatical obligation established by the promulgation of the fourth commandment, has no basis whatever, either in Holy Scripture or in Christian antiquity." He adds that "the idea afterward embodied in the title of 'the Christian Sabbath,' and carried out in ordinances of Judaic rigor, was, so far as we can see, entirely unknown in the early centuries of Christianity."

No doubt, the belief was constant that all that was divine in the law was fulfilled in the gospel. But no one supposed that the Sabbath of the law was fulfilled by another outward Sabbath of a seventh-day's rest. The outward rest of the Jewish Sabbath was fulfilled in the gospel by an inward rest of the soul, resting from anxious effort in a confident faith. This is the only Christian Sabbath mentioned in the New Testament. The only place where Sabbath-keeping is spoken of except to be condemned, is in the Epistle to the Hebrews (iv, 9) where it is said that "there remains a Sabbath-keeping to the people of God." But the context shows that this Sabbath-keeping is the spiritual rest of the soul, which belongs not to one day but to all days. The idea of the Christian Sabbath is not the celebration of any particular day, but a rest from spiritual anxiety and struggle. This idea prevails in the writings of all the early Church fathers. Athanasius says, "We keep no Sabbath-day, but look forward to the Sabbath of Sabbaths in heaven." Epiphanius says the Jews have their "little Sabbath," but we our "great Sabbath," which is "rest from our sins." St. Jerome affirms that "all days are the same to a Christian." St. Augustine plainly declares that there is no obligation on a Christian to keep any Sabbath. In Christianity, he says, "the observation of that kind of Sabbath which consists in the rest of a single day

is no longer a duty for the faithful." In speaking of the commandments he says that, while all the rest are to be obeyed literally, the fourth is to be obeyed only as a figure. And though a tendency to Sabbatize soon began to come in, it was resisted by the most eminent teachers, and is said not to have been complete till the time of Charlemagne. It was not till the twelfth century that we find the phrase "Christian Sabbath" applied to the Lord's day. Dr. Barry, concluding his article on the Lord's day, says that "the connection of its observance with the fourth commandment rests on no Scriptural and no high ecclesiastical authority." The same result is reached by Dr. Hessey, in his Bampton Lectures before the University of Oxford, in 1860.

The reformers were nearly unanimous on this point. Dr. Hessey says that "Sabbatarianism of every phase was expressly repudiated by the chief reformers in almost every country (even by Calvin, the friend of Knox, and by Knox himself, who is supposed, though incorrectly, to have introduced it into Scotland), and it does not appear in the fully authorized documents of the Church of England." Luther's well-known passage in the "Table-Talk" is very strong: "If anywhere the day is made holy for the mere day's sake, if anywhere any one sets up its observance on a Jewish foundation, then I order you to work on it, to ride on it, to dance on it, to feast on it, to do anything that shall remove this encroachment on Christian liberty." The "Augsburg Confession," prepared by Melanchthon for the whole Protestant communion, says, "Those who judge that in the place of the Sabbath the Lord's day was instituted, as a day to be necessarily observed, are greatly mistaken."

But if the force of evidence thus compels us to renounce placing the observance of a day of rest on the ground of a positive divine command, by what principle can this observance be maintained? There evidently remains, for the Protestant, nothing but the argument of its utility, or necessity for the good of man. If we can not any longer consider it as God's day, we must defend and maintain it as man's day. Is this foundation strong enough to support it? Is the use of the first day as a time of rest, of worship, and moral recreation, likely to continue, the authority of a religious law being wholly taken away?

I believe that this basis will be sufficient, and that the Lord's day will always continue a day of rest, though there may be changes in the mode of its observance.

There was no other ground for it at first. Sunday was observed in the beginning, as we have seen, with no reference to the Sabbath or the fourth commandment. It sprang up because it was needed, it spread because it was found useful and good. It was not protected by positive legal enactments till the time of Constantine. During the first three centuries of Christianity the habit of resting from usual labors and meeting for worship grew, until it became universal, not because of any divine command, not as an apostolic institution, but because it was in accord with Christianity and with human nature. Civilized man *needs* just such a period of relaxation and refreshment; and, as long as he needs it, he will certainly continue to have it.

And this need does not diminish, but increases, with the progress of civilization. The most advanced nations of the world need this rest the most, because they work the hardest. Competition becomes more intense, the strain on the nerves more exhausting. Though, by means of machinery, more is produced, yet the wants of society increase yet more rapidly. What was once a luxury soon becomes a necessity. Living in the midst of this vital tension we are not aware of it, but it necessitates every year longer vacations, more numerous holidays, and it makes one day of rest in seven wholly indispensable. If it could *ever* have been abandoned, it certainly can not be relinquished now.

With the increase of education, the Sunday rest becomes yet more necessary. When the mind has been once aroused to activity, it can not do without some food; and so the Sunday becomes more and more a day for popular education. Those who go to church demand some mental excitement and instruction from the sermon and the other services. The opening of city libraries, art museums, public gardens, zoölogical gardens, and concerts, is furnishing constantly new sources of education, as well as refreshment, for the laboring classes. The hard-working man, who has no other time for mental improvement, can, least of all, dispense with these opportunities. The rich man can have them every day, the poor man only on the day of rest.

Such recreations as these are themselves an education. What a refreshment to worn-out bodies and minds are the great parks in and near our cities, where hundreds of thousands of people enjoy, on summer Sunday afternoons and evenings, the sight of grass, flowers, statues, sky, and sea! More of this is wanted, and not less. Who can see the immense throngs of people at Manhattan

Beach, Coney Island, of a hot Sunday—sitting, walking, bathing, listening to music, and dining at tables set on piazzas in the open air—without rejoicing at their having such an opportunity? The writer last summer walked all one Sunday among these crowds, without seeing a drunken man or hearing a violent word. Scenes of drunkenness, debauchery, and riot occur, not usually in the open air and in the midst of multitudes, but in the dark lanes and cellars of a city.

"But we do not want a Continental Sunday," it is said. I remember that many years ago I passed a Sunday in Zurich, a Protestant city, and attended church early in the morning, in the cathedral of Zwingli, which was filled with a large congregation. In the afternoon I walked to the Uetliberg, and saw thousands of the people going and coming, along the many beautiful promenades which surround the city. Men, women, and children walked together, or sat at tables under the vines, drinking their beer or coffee. But all was peaceful, quiet enjoyment. And I thought, "If this is what is called a Continental Sunday, how much better it is than the gin-shops of London, or the Sunday riots and murders in New York!"

Dr. Guthrie, an eminent Scotch Presbyterian,* says: "We counted on one occasion, in Paris, thirty-three theatres and places of amusement open on the Sabbath-day. Coming home, in one hour we saw in London and Edinburgh, with all her churches, and schools, and piety, more drunkenness than we saw in five long months in guilty Paris." I also quote from Mr. Garrett's tract what an English writer, Rev. John Woolley, says of a Sunday in Munich:

"The city of Munich is, as all the world knows and none better than its citizens, unrivaled in its beer. But on Sundays, though the beer-alleys are in the open air, the quiet, as compared with an English holiday, is most striking. The cause is easily given. During the day all the churches are crowded to suffocation; in the evening, from about six to dark, two bands of music play in the pretty 'English Park,' which is crowded by promenaders of every degree, from the royal family to the humblest handicraftsman. There are tables and booths around, where coffee and ices may be procured at a low price; and many Munich families take, in this way, their evening meal. Nothing can exceed the picturesque beauty of the scene

* Quoted by William C. Garrett in "The Workingman's Sunday."

except its moral beauty. We often sadly contrasted the cheerful, contented faces around us with the haggard, care-worn look of the same classes of our countrymen—often wished that we, too, were taught to worship God with the natural homage of thankful enjoyment. . . . For the upper classes, we are sure that the self-denial, if such it is, of spending some part of this holy day in friendly intercourse with their poorer neighbors will be amply repaid by its influence on themselves and those they seek to benefit."

Parks and public gardens, and watering-places like Coney Island, near New York, and Revere Beach, near Boston, are excellent for the people in the summer. But how shall they pass the winter days and evenings? They can not be at church all day. Why should there not then be, connected with the churches, public halls, open to all who behave decently, where the working-people can go —men, and women, and children? There might be music, pictures, reading-rooms with newspapers, coffee-rooms, and places for conversation. Suppose that every church in each of our great cities should open such a building—both for Sunday and week-day evenings—would not their usefulness be immeasurably increased?

For the individual, who wishes a rule by which to guide his own action, this is sufficient; whatever rests and refreshes us is right, what weakens and dissipates our powers is wrong. But it is not so easy to decide what should be the universal custom, and still less to say what ought to be allowed or prohibited by law.

Many persons ask, and with apparent reason: "What right has the law to interfere at all? There is no established religion in this country; Church and state are here wholly separate. Why, then, should the state perpetuate the Jewish Sabbath, and forbid men from working, if they like, on Sunday? Why undertake to decide what amusements may be allowed, and what not? Why close theatres, for example? Theatres are permitted on Sunday evening in those countries which have a state religion; why forbid them by law here, where the state professes to have nothing to do with religion?"

The answer to this is, that the state has a right to do, and ought to do, what is believed by the large majority to be for the best good of the community. Every one is taxed to support public schools, because the great majority think them necessary to maintain republican institutions. Yet many persons may find it hard to be taxed for the schools. They have no children; or, they send them to private schools or to church schools—why should they have

to pay for the public schools too? The answer is: In a republic where the majority rule, you must accept what they think necessary for the public good, unless where the Constitution protects you against any excessive exercise of such a power.

The fact that Sunday laws are maintained in all the States of the Union shows that the great majority of the people believe that Sunday should be a day of rest. Without such laws it could not be so preserved. Great corporations, having no souls themselves, would not think it necessary to care either for the souls or bodies of their workmen. The laboring man needs the rest of Sunday more than any one else. Others can rest, if they please, on other days; he can only have a holiday once a week, under the protection of law. Without such law, the greed of money-making would cover the whole year with unbroken, unremitted labor.

The Sunday laws are much the same in all the States, and all forbid both labor and amusement on the Lord's day. In Massachusetts the existing law (last adopted in 1860) forbids opening shops or workshops, doing any work, except of necessity or mercy, being present at any public diversion, taking part in any sport or game, except a concert of sacred music, traveling, unless for necessity or mercy, serving civil process, disturbing public worship, shooting birds, or catching fish. These laws are continually and openly violated, are scarcely known to the people, and very much perplex the courts that are called to adjudicate cases arising under them. Thus Chief-Justice Gray, of Massachusetts, in declaring what technical meaning must be put on the word "travel" in the statute, gave as his opinion that "a person walking with a friend on Sunday evening less than half a mile, with no apparent purpose of going to or stopping at any place but his own home, much less of passing out of the city, and no object of business or pleasure except open air and gentle exercise, is not guilty of traveling or liable to punishment under this act." It would seem that the law should be modified, when a wise and liberal judge is forced to construe it thus strictly.

The great majority of the people of the United States also believe that the public worship of God, public reading of the Scriptures, public instruction in religion and morality, are important aids, at least, in maintaining the welfare of the community. If the churches were closed, the morality of the New Testament no longer taught every week from a hundred thousand pulpits, if on every returning Sunday men were no more reminded of God, duty, and

immortality, a vast influence for virtuous conduct would be taken away. It is on this ground that the state has a right to make laws to protect and encourage the religious worship of all denominations and all religions. Any religion which continually reminds men that they have immortal souls, and that they are responsible to God for their conduct, is an advantage to the community. The sound of a church-bell, the music of an old psalm-tune, awaken associations and memories which make all men better. "As I was walking in my garden at Malmaison," said the first Napoleon, "I heard the distant sound of the church-bell at Rueil, and I stopped, moved involuntarily by old associations. If I, a man like me, am so affected, how much force must such influences have on the mass of mankind!"

If the Church, instead of following blindly its old forms on Sunday, shall consider seriously how to modify, enlarge, and improve its work, then, like its Master, it will be once more "Lord of the Sabbath." The day has now half escaped from its hands; let it hasten to recover its hold. When the community finds that the churches are meaning to furnish the greatest possible amount of education, good influence, and innocent happiness on this day, they will gladly again accept its leadership. Instead of the religious influence of Sunday being diminished, it will be largely increased by such a change. If the Church takes charge of the whole day—devoting the morning to worship and religious teaching, the afternoon to works of charity and instructive lectures, and the evening to social meetings and innocent recreation—then the whole day will be sanctified and become altogether the Lord's day.

Every such attempt to provide innocent recreation for the community on Sunday will be opposed, and honestly opposed, on the ground that it will interfere with church-going. The reply is, first, that there are multitudes who have abandoned church-going—multitudes who never now put their foot into a church. Since these persons will not go to the Church, shall not the Church come to them, offering them innocent recreation in the place of intemperance and its evil consequences? Is it not better for them to read, talk, listen to music, or to a lecture in a pleasantly lighted hall, than drink themselves crazy in a bar-room? The temptations of sin are at every corner—it is not necessary to buy or hire a seat in order to be welcomed into a lighted and cheerful saloon, where drink will seem to drive away care.

But, secondly, we can not fail to see that the churches must

adopt new methods in order to fill the empty seats. The time has passed when every one went to church as a matter of duty, in obedience to a positive divine command. Henceforth they must go because they find themselves happier for going, because they enjoy their church opportunities. They can not any longer be driven to church by obedience to positive divine law; they must be attracted by love for the Church itself. The Church, then, must be made more attractive, and new methods be found for interesting all classes in its public service. Already, people go to church where they think they get the most good: some, because they enjoy a popular preacher; some, because they enjoy fine music, noble architecture, solemn ceremonies, and ritual; some, because it is the only society they have, the only place where they have a part in any social life. The churches of the poor take the place to them of clubs, parties, receptions, and other social entertainments. Besides all this, there is a profound craving in man for worship, for a religious influence. This will never be outgrown. We may confidently rely upon it as sufficient to draw people to church, provided the churches are hospitable, attractive, cheerful, social, and sincerely devout.

Let us plant ourselves firmly and confidently on the principle that Sabbath, Lord's day, church, and religion are made for man—and all are to be so used, so changed and so improved, as to satisfy all his wants. The only rule for keeping Sunday is so to use it as to get the most good out of it. The one test, if we think only of ourselves, of the right and wrong use of the day is, Does it refresh us, soul and body, and leave us better fitted for all our duties? Whatever does this, is right to be done on Sunday.

Rest and refreshment are the two objects of the day. That amusement is right which rests and refreshes soul and body; that amusement is wrong which unfits us for the work of the week. This is the difference between recreation and dissipation. One creates our powers anew, the other dissipates and wastes them.

But, while we are seeking what is best for ourselves, we must always bear in mind what is good for others also.

No man lives to himself, nor dies to himself. Pure individualism can not exist unless on Robinson Crusoe's island. No man has a right to withdraw himself from all concern in the interests of his fellow-man. Therefore we should give our influence to those Sunday laws, customs, and institutions which will be best for young and old, rich and poor, wise and ignorant. If we really believe

that happy, quiet, restful Sundays are needed by the people, then, whether we ourselves need them or not we should do what we can to secure them for others. If we believe that Sunday can be made of still greater use to the people than it is now by increasing its methods of furnishing innocent healthful recreation, and by opening the doors of churches, libraries, galleries of art, museums of natural history, reading-rooms, halls for familiar lectures on literary and scientific subjects, and for music, let us all help toward this end each in his own way—considering not only what is good for ourselves, but also what is good for others.

JAMES FREEMAN CLARKE.

SOUTHERN STATESMEN AND THEIR POLICY.

THE boast of the Democracy, in the recent canvass, of "a solid South," seemed to illustrate the madness of those whom the gods have determined to destroy, since it repelled the last cherished hope of a reviving loyalty, and presented for the judgment of the nation the views and aims of the Southern leaders.

Among the subjects connected with the outcome of the rebellion, to which slight justice has yet been done, from which political leaders on both sides have appeared to shrink, and which await the criticism of publicists and the judgment of history, are the degree of wisdom exhibited by the representatives of the North who planned and executed their scheme of reconstruction for the Southern States, with extended powers and slender guarantees; and next, the policy and methods resorted to by the champions of "the lost cause," to recover the control of their section and ultimately of the republic.

The Convention which framed the American Constitution was called by Jefferson "an assembly of demigods," and Mr. Gladstone has spoken of that Constitution as "the most wonderful work ever struck off at a given time by the brain or purpose of man." It remains to be seen whether other Jeffersons and Gladstones will apostrophize as superhuman the virtue, wisdom, and foresight that presided at Washington over the reconstruction of the South, and commend that work as a masterpiece of statesmanship, wonderful and godlike, to the admiration of the world.

Small reverence has thus far been expressed for it by the Republicans themselves, as their triumphant party gradually fell from the height of power to the valley of humiliation; as they watched those recently in rebellion against the Government, reconquering loyal States and resuming the control of the Senate and the House; and as in utter helplessness they saw fraud, intimidation, and vio-

lence spreading over the South—the murder-rate rising to a degree unknown to the rest of Christendom ; Southern citizens who stood by the Government ostracized and punished ; while with a bad faith, at which the world still marvels, the ballot of the freedman, for which the South claimed an increase of electors, was arrested by assassination.

The policy of conciliation and confidence on which the Government based its scheme of reconstruction was at the time pronounced by European statesmen sentimental and dangerous. It was the exaggerated counterpart of that feeble and fatal policy of conciliation and concession into which the nation had been so long deluded by the Slave-power under assurances of its devotion to the Union, until what was deemed a convenient period arrived for its dissolution.

However conciliatory and magnanimous our policy, there were things clearly demanded by the safety and honor of the nation. We might waive indemnity for the past, but we had no right to waive security for the future : security for the Union whites, security for the enfranchised blacks, security for republican government in each State, with public schools for all on a permanent basis, and a fair and equal administration of the law so far as depended on the national Government, in a manner calculated to impress the Southern mind and to encourage loyalty to the national Constitution.

If the reconstruction policy was to be one of conciliation, there was the more reason for its execution in a way to attract to the side of the Government the ablest and most influential of the Southern leaders. Alexander Hamilton said—and the statesmen of his day knew how to reduce maxims to practice—"Our prevailing opinions are ambition and interest, and it will ever be the duty of a wise government to avail itself of those passions in order to make them subservient to the public good, for these ever induce us to action."

General Longstreet, Mr. ex-Secretary McCrary, Colonel Mosby, and a few other prominent Southrons who can almost be counted on one's fingers, accepted the situation, repudiated what Washington, with prophetic vision, called "the monster," State sovereignty, and accepted in good faith the results of the war and the constitutional amendments.

But the Southern leaders of opinion—men like Mr. Alexander H. Stephens, General Wade Hampton (so recently a prince among the

great slaveholders), General Robert Toombs, Mr. Senator Hill, Senator Vance, Governor Colquitt, of Georgia, Mr. Call, of Florida, Mr. Garland, of Arkansas, and others of equal prominence, seem to have adhered with new energy to their olden views engendered by slavery: and, if they have admitted that the slave is free, they have resisted with their ancient pertinacity his advance to political equality: and they have claimed as proudly as before, the rights, privileges, and prejudices of an aristocratic class. They belong, so the "Charleston Mercury" assures us, to a master-race, and have looked upon Northern Puritans as the Cavaliers looked upon Saxon serfs. Their treatment of the freedmen is disclosed by the official proofs glanced at by Judge Tourgee; and a Southern paper, the "Meriden Mercury," ventures to prophesy that "the negro in these States will be a slave again, or cease to be. His sole refuge from extinction will be in slavery to the white man." The faith seems to linger among this class of Southern gentlemen that the right to enslave the negro is the most sacred of all liberties.

The Southern leaders who visited the North during the canvass, and spoke at the assemblage presided over by Mr. Belmont, avoided the discussion of these questions, and but little of the Southern policy so frankly developed in the Southern Historical Society, and occasionally by their impulsive orators, could be learned from the speeches of their accomplished spokesmen, Messrs. Bayard, Carroll, Whyte, Hampton, Richardson, Mackay, Waddell, Williams, Hill, and Garland. Mr. Bayard was inclined to treat as a party invention the idea of a solid South, apparently forgetting Democratic boasts like that of Mr. Blackburn, of Kentucky: "Let the radicals cease their brawl about a 'solid South.' She is solid, thank God; she was solid for Jeff Davis in 1860, and we will be solid for Hancock in 1880." Mr. Carroll alluded to the one hundred and thirty-eight votes solid against the Republican party in a tone which seemed to intimate that they intended to claim these votes as valid, and that they really expected that the Republicans would recognize them as valid, despite the plain rule so clearly stated by General Hancock that "neither force nor fraud must be allowed to subvert the rights of the people," and that unless there is "a full vote, free ballot, and fair count," the foundation is taken away, and the whole structure of republican government falls.

There was no allusion to the well-known fact that, of the States counted in the solid South, South Carolina, Alabama, Louisiana, and Mississippi, with thirty-three votes, had an unquestionable Repub-

lican majority; a fact which recalls the declaration of General Toombs, in the Georgia Convention, which framed the present Constitution of that State, as quoted by the author of the "Fate of Republics":* "They [the freedmen] are to be governed as every race of paupers is governed by those who own the property and give them bread. . . . As his friends tried to govern him by force and fraud, we will control him by force and fraud to prevent his bringing us to ruin."

The efforts of the Southern leaders since the war to recover the control of the republic will supply an instructive chapter for our national history. Whatever may be thought of the judiciousness of their policy or the morality of their methods, those most at variance with them on these points can still admit that their devotion to "the lost cause" has been worthy of a higher and nobler end: and that they have exhibited a steadiness of resolution, a boldness of conception, and an audacity in execution which, if exemplified by sounder aims and purer methods, might well command approval and respect.

Perhaps their ablest leader since the war has been Mr. Alexander H. Stephens, of Georgia, who, in his eloquent protest against secession in 1860, said: ". . . I fear, if we rashly take that step, that instead of becoming gods we shall become demons, and at no distant day commence cutting one another's throats."

His next great effort, known at the South as the "corner-stone speech," was delivered on the 21st of March, 1861; and in February, 1866, Mr. Stephens made a third speech, of which extracts are given in an admirable address at Atlanta, April 2, 1879, of the Hon. J. E. Bryant. Mr. Stephens said: "Secession was tried. That has failed. Our only alternative now is either to give up all hope of constitutional liberty or retrace our steps, and to look for its vindication and maintenance in the forums of reason and justice, instead of on the arena of arms; in the courts and halls of legislation instead of on the field of battle."

In support of this view, Mr. Stephens found encouraging example and hope in the history of the mother-country.

His idea that the cause lost on the battle-field should be prosecuted with faith and perseverance in politics was promptly accepted; and in 1868 General Wade Hampton was reported as having said to the alumni of Washington College, Virginia, in allusion

* Boston: Estes & Lauriat, 1880, p. 232.

to their "martyred dead," "The cause for which Jackson and Stuart fell can not be in vain, but will in some form revive."

In 1873 the Southern Historical Society was founded at Montgomery, by the representation of twelve States, not simply to secure materials for a history of the war, but to exert "a moral influence through the whole South; . . . to repel the insidious advances of those vicious principles which are now so fearfully undermining the civilization of the North." Mr. Jefferson Davis was present, and it is said was received "as President Davis, with all the honors due to the President of the United States."

In October, 1873, General Wade Hampton addressed the Southern Historical Society in the Senate-chamber at Richmond, and said: "Now, when that country is prostrate in the dust, weeping for her dead who have died in vain to save her liberties, every patriotic impulse should urge her surviving children to vindicate the great principles for which she fought."

In their behalf he drew an augury of their future success from an historic parallel, drawn from Continental Europe, in which the South was likened to Prussia and the North to France. When Napoleon, in the campaign of Jena, had struck down the whole military strength of Prussia, no hope was left but in the unconquered and unconquerable patriotism of her sons. But a few years passed before her troops turned the scale of victory at Waterloo, and the Treaty of Paris atoned in part for that of Tilsit. The orator next pictured Prussia as educating her children to be good citizens in time of peace and formidable soldiers in war, with the awakened spirit of the Fatherland for half a century, until she met her old antagonist, and the extorted contributions had been repaid, and shameful defeats wiped out by glorious victories.

A little later, on the 1st of July, 1875, General John S. Preston, of South Carolina, addressed the alumni of the University of Virginia on their fiftieth year, and he referred to the difference between "the turbulent fanatic of Plymouth Rock and the God-fearing Christian of Jamestown" as lying at the basis of the present antagonism of the North and South, as forbidding for ever the bonds of brotherhood, and as verifying anew the irreversible maxim of the Greek philosopher: "You may combine for the pursuit of trade, or form alliances for defense, but Corinth and Megara can never be one state; they are two peoples."

With reference to the war, General Preston said: "Let your historian . . . . say, 'We were not subdued when Lee surrendered

his starvelings at Appomattox'"; and, according to the reporter, "Southern enthusiasm was aroused to the highest altitudes, and General Preston's appeal to Southern patriotism fell on susceptible minds and touched the hearts of those who were familiar with the memories of the past."

Governor Colquitt, of Georgia, in the dedication of a monument to the Confederate heroes, spoke of "*those liberties which even now their surviving comrades do in our country's capitol maintain inviolate.*"

To learn what are these principles and liberties, for which their heroes died, and which the Southern wing of the Democracy are preserving inviolate at Washington, we may read backward the annals of the South, and find them developed in its policy, until we come to their expression by the great leader and oracle of the South, Mr. Calhoun, soon after he had left the halls of Yale for those of Congress.

Mr. Rhett said, in the secession convention of South Carolina in 1860, that it was not the event of a day, but had been gathering head for thirty years, and he added, "Have the labors of Calhoun been forgotten, when he declared a few years ago for the secession of South Carolina, and that secession would be the consummation of their liberties?"

The allusion of Mr. Rhett carries the Southern policy of Mr. Calhoun to 1832; but the late Commodore Charles Stewart recorded a conversation which he had with Mr. Calhoun in 1812, when the latter thus defined what he called the sectional policy of the South. He said to Captain Stewart: "I admit your conclusions in respect to us Southerners. That we are essentially aristocratic I can not deny, but we can and do yield much to Democracy. This is our sectional policy; we are from necessity thrown upon and solemnly wedded to that party (however it may occasionally clash with our feelings) for the conservation of our interests. It is through our affiliation with that party in the Middle and Western States that we hold power; but when we cease thus to control this nation through a disjointed Democracy, or any material obstacle in that party which shall tend to throw us out of that rule and control, we shall then resort to the dissolution of the Union."

It would be difficult to improve upon the clearness and simplicity of this brief statement in which Mr. Calhoun, nearly seventy years ago, developed the policy of the party which, a half century later, organized secession and warred upon the Government: and which,

after a conquest that was deemed complete, again presented itself as the "solid South," with a Congressional and electoral representation nearly twice as large as that of any equal voting population in the old free States. Here we may learn something of the eternal principles and liberties for which their departed heroes fought, and which their surviving heroes maintain at Washington and teach to their children. Mr. Calhoun's exposition of their sectional policy is also interesting as accurately describing the rôle allotted to the Northern Democracy, as the party through which they proposed to govern the republic, however much such an alliance might clash with their feelings. In after-years they sometimes called their useful but displeasing allies their "white slaves" and Northern "doughfaces"; and the submissiveness with which the Northern Democracy performed their part, despite the sneers of Southern statesmen like Randolph of Roanoke, and Stanley, of North Carolina, may have been regarded by the slaveholders as justifying their moderate estimate of Northern patriotism, manliness, and pride.

The task imposed by them on the Northern Democracy was the more irksome, from the fact that the South wished to control the Union in the interest of the Southern section, the narrow scope of whose peculiar interests was opposed to the wider and more varied industries of the free States. The provision, for instance, in the Confederate Constitution that no duties or taxes on importations from foreign nations "be laid to promote or foster any branch of industry," indicated a sectional policy on the part of the planter-class at variance with the broader policy of judiciously cherishing the great industries of the nation. Despite regrettable defects in the present tariff, demanding prompt and wise revision—especially where they may interfere with the restoration of our carrying-trade, which it is little to our credit has never been reëstablished since the Southern Alabamas swept it from the seas—despite all defects in our system for encouraging American genius, and protecting from competition American industries, it has developed, as even its English opponents are compelled to admit, in an unparalleled degree the wealth, prosperity, and independence of the republic. The country has not now to learn the injurious effect upon the manufacturing States of a sudden and ill-judged reduction in the tariff, as in 1846; and Mr. Clay once said that one object of the abandonment of the protective policy was the conciliation of the nullifiers.

Although manufactures have since made some progress at the

South, a Mississippi journal, "The States," in recently announcing its platform as "State rights, including secession as an incident, and the repeal of the fourteenth and fifteenth amendments," added—and the phrase has a world of significance in the memories which it recalls—"the restoration of the planters' republic of our fathers."

But wider far than the planter interest of the South and the gigantic industries of the republic is the difference between the ideas and principles and habits begotten by slavery and those which are the hardy growth of freedom; and a careful study of the Calhoun policy as exhibited from the Missouri Compromise to the late election, noting the aims and methods of the Southern leaders and the action of the Northern Democracy, will throw light upon the great problem which thus far Republican Administrations have failed to solve, but of which the country expects a satisfactory and permanent solution from President Garfield.

Regarding the reconstruction scheme with negro suffrage as an offense to their pride, and at the same time as a masterpiece of Republican blundering which they could easily turn to their advantage, the Southern leaders have looked upon the apparent acquiescence of the Government and the country in their defiance of the constitutional amendments, and in their treatment of Union citizens and freedmen voters whom the nation, remembering that *noblesse oblige*, could not honorably abandon to their fate, as presenting a picture of national humiliation before the world, exceeding in degree each tame surrender by the North in our history before the war, of its ancestral principles and traditions, and of its constitutional rights of freedom of speech, freedom of the press, and the right of petition.

In their recent temper, while deluded, as often before, by their Northern allies into hopes of victory that were doomed to disappointment, even kindly acts of social courtesy on the part of the North they looked upon as signs of weakness, to be met with silent contempt or open defiance.

When, on General Grant's arrival at Chicago in November last, it was deemed fitting to send friendly messages to the prominent men of the South, Mr. Wade Hampton declined to answer, and Mr. Toombs wrote: "I decline to answer, except to present my personal congratulations to General Grant on his safe arrival in the country. He fought for his country honorably, and won; I fought for mine, and lost. DEATH TO THE UNION! Robert Toombs."

A great Southerner of the last century, William Pinkney, of

Maryland, in a famous speech before the House of Delegates in 1789, speaking of the dangerous consequences of the system of bondage, said: "To me, sir, nothing for which I have not the evidence of my senses is more clear than that it will one day destroy that reverence for liberty which is the vital principle of a republic. While a majority of your citizens are accustomed to rule with the authority of despots within particular limits, while your youth are reared in the habit of thinking that the great rights of human nature are not so sacred but that they may with innocence be trampled on, can it be expected that the public mind should glow with that generous ardor in the cause of freedom which can alone save a government like ours from the lurking demon of usurpation?"

Ninety-one years have passed, with their successive generations, since the far-sighted Marylander spoke these words of truth and soberness; and, with nearly a century of blunders behind us, the new Administration should, without further illusion or mistake, backed as it will be by a powerful constituency and an overwhelming public opinion, disable, if they can not utterly destroy, the "monster," State sovereignty, and fulfill the sacred duty imposed by the Constitution, to "guarantee to every State in the Union a republican form of government," with the equal enjoyment by all of the rights secured by the constitutional amendments.

The election of Republican Congressmen from Tennessee, Missouri, Virginia, North Carolina, Louisiana, West Virginia, and Kentucky, will give loyal Southrons fitting spokesmen at Washington. Under a wise, firm, and just Administration, free alike from sentimentality and corruption, a Union party should soon arise in each State, embracing many of the dominant faction who are tired of a lead marked by immoral methods which has led only to defeat, and who in defiance of threat and proscription await only national protection for a new departure in the direction of free speech and fair counts, of education, credit, and success. The Augusta (Georgia) "Chronicle" says not too reverently of the South in the Presidential election, "She has for the last time been led as a lamb to the slaughter." The abandonment by the Democracy of its distinctive principles, even to free trade, has induced the Memphis "Appeal" to remark that "the solid South stands almost alone for the Democratic principles."

The resort to calumny, which culminated toward the close in forgery, and the attempt to gag the press, and especially the "Herald," in its criticism on the introduction into our city politics of

ecclesiastical dictation, induced the "Evening Post" to say that "the miscreants have descended to the lowest depths of infamy."

It is clear that the Democracy do not take kindly to the priestly domination of which Mr. Kelly has shown himself the fearless and energetic administrator. It may perhaps be natural to those educated in Roman Catholic schools, and whom even Dr. Orestes A. Brownson, the great champion of the Papacy, describes as "misplaced and mistimed in this world as if born and educated for a world that has ceased to exist," to believe that in our republic all rightful power comes not from the people of America but from the Pope of Rome; that the state has no rights excepting as the Pope may approve; and that the Pope alone has the right to educate our children and to teach them that their first allegiance is to himself. But Americans born, educated in American schools, including thousands of liberal Roman Catholics, reject such doctrines as untrue and un-American, and cling the more closely to our common-school system with its broad elements of intellectual power, its habits of inquiry and free thought, and its unsectarian Christian morals, as the great safeguard of the people against ignorance, superstition, and that foreign influence of which Washington entreated them to beware. Rome contemplates its elevating and enlightening power, and feels that our public schools must be abolished or manipulated before she can here exercise her supremacy, which, as defined by the "Catholic World" (July, 1870), includes not only education, but "the censorship of ideas, and the right to examine and approve or disapprove all books, publications, writings, and utterances intended for public instruction, enlightenment, or entertainment, and the supervision of places of amusement."

If our boys are educated in our public schools as American citizens, how can they believe, as the "Catholic World" teaches, that "as citizens, electors, and public officers, we should always and under all circumstances act simply as Catholics"? How could the Roman priests, who, as Governor Lucius Robinson intimated, stimulated the Roman Catholic voters by whom last year the New York Democracy was divided and the Governor defeated, expect to guide the whole Democratic party, and secure for the Sovereign Pontiff the political control of the republic in the manner described by the "Catholic World," when it says, "The means placed at their disposal for securing this rich possession are not the sword or wars of extermination waged against the enemies of their religion, but in-

stead the mild and peaceful influence of the ballot, directed by instructed Catholic conscience and enlightened Catholic intelligence"?

The uprising of the masses, Democratic and Republican, at this new intermeddling with our politics by the Jesuit order, which with olden skill and audacity is now assailing in turn the American state and our political and religious freedom, was such as to impress the country with the depth of the indignation which the movement had aroused, and which influential Democrats like ex-Mayor Wickham and Mr. Talcott were among the first to express; and the fact that the vote for Mr. Grace fell nearly forty thousand below the vote for General Hancock is one that indicates that a Democratic faction which consents to be led by Rome in its crusade against American institutions can no longer count on loyal Americans for support.

A significant remark by a prominent Southerner some weeks ago, that "Garfield would be elected, but that Hancock would be counted in," was recalled by vague suggestions of violence and civil war as the election approached, and which are now supplemented by threats that the Houses of Congress, both temporarily Democratic, will reject the vote of New York on some pretense of fraud, not yet discovered, and declare Hancock duly elected.

In the present temper of the country, both at the North and the South, in regard to the immorality of the Democratic canvass, it is not clear what the Democracy of either section would expect to gain by attempting to interrupt the prosperity of both sections by inaugurating war upon such an issue. Nor is it easy to see, despite occasional intimations of its coming, how such an interruption at this time would benefit the clerical friends of Mr. Kelly. The "Catholic Herald" of May 24, 1879, is quoted as saying: "It is our belief that a most dreadful combat, a most awful conflict between the powers of good and evil, is in the near future, and that the fate of the republic depends upon the result." General Grant, on the other hand, predicts that, if we are to have another contest in the near future, "the dividing line will not be Mason and Dixon's, but it will be between patriotism and intelligence on one side and superstition, ambition, and ignorance on the other."

Whatever may await us, all true Americans, whatever their party, creed, or section, will assist to maintain the national peace, honor, and prosperity. To all Republicans of intelligence and culture it belongs to let the incoming Administration of Mr. Garfield feel that in maintaining the republic in its dignity and strength,

keeping free from suspicion its civil service, and doing that exact and equal justice which will tend to restore our national harmony, and encourage the rise of Southern statesmen with a national policy, the President and his officers can depend upon a constant, earnest, and watchful support by the virtue, intelligence and culture of the republic.

JOHN JAY.

THE RUINS OF CENTRAL AMERICA.

PART IV.

Our next field of labor was Tula, the ancient metropolis of the Toltecs, now a village of fifteen hundred inhabitants, situate about sixty-five miles to the north of the city of Mexico. We traveled by rail to Huehuetoca, and thence by diligence over execrable roads to our destination, some twenty-five miles from the latter place. I will here briefly recount the history of Tula as written by Clavigero, the only one of the Spanish historians of Mexico who possessed the critical faculty.

The Toltecs came from the north, bringing Asiatic traditions, and settled first at Tollantzinco, there tarrying only twenty years, and then definitively establishing themselves at Tollan or Tula, in the year 667. The Toltec empire lasted three hundred and eighty-four years, or till 1051. Here we are, therefore, in the capital of the most famous nation of Anahuac. A gentle race were the Toltecs, preferring the arts to war, and the nations that came later owed to them the culture of cotton, of maize, and of the different fruits grown on the high plateaus ; from them they learned the art of metallurgy and of cutting precious stones. Wherever we go we find memorials of them : to them is attributed the construction of the pyramids of Teotihuacan and of Cholula.

This interesting civilization perished as though by an earthquake : a series of calamities effaced the work of almost four centuries. First came a drought of several years' duration ; this was followed by a famine, and then came pestilence. A feeble remnant of the population only survived, and with these the chief Quetzalcoatl resolved to go in search of some more hospitable region. Leaving Cholula they journeyed southward along the shore of the Gulf and the coast of the Pacific, and settled in Yucatan, where we shall find them later.

What now remains to indicate the site of their ancient capital, Tula? A hill about one mile long by half a mile broad, covered with mounds, plateaus, and ruins of all kinds.

Some of the inhabitants of Tula have made collections of the antiquities of the place. Among these I would particularize a carved pearl shell representing a Toltec chief seated. This figure exactly corresponds with one of the figures of warriors among the bas-reliefs of Chichen-Itza, as reproduced by Stephens.

On the face of a rock just south of Tula are sculptured two figures of warriors which, in their head-gear, their ornaments, and their attitude, are identical with the warriors of Chichen-Itza. A stone ring to be seen in one of the streets is carved precisely like the ring at Chichen. In the plaza is the shaft of a column in two pieces, which were held together by tenon and mortice. The column was sculptured and covered with curved lines and palms. There are also in the plaza three caryatides of very hard basalt, each two metres eighteen centimetres in height. The upper half of these figures is wanting. Though rudely executed, they are not without artistic merit.

We began our excavations here on the 16th of August with a force of four men and two boys. The results of each successive day's work I will state as they are recorded in my journal.

On the first day the objects of use or ornament found by us were not of much importance, and none of them were perfect. Nevertheless, I consider myself singularly fortunate in having discovered a Toltec house answering to the description given to us by Torquemada in his account of Teotihuacan. As yet I can affirm nothing; still, from the remains brought to light, I can conjecture what kind of habitation it must have been. I set the men to work at one of the many mounds upon the ridge, and soon found that I had hit upon a group of habitations; further, as luck would have it, the progress of the work brought us to the portal of the habitation.

When writing about Teotihuacan I said that all the dwellings of the upper class of the population were united together in groups, and erected in isolated mounds, one in the middle, the others round about, the whole forming a sort of honeycomb with its cells placed at different elevations. Well, the Toltec habitation here at Tula was organized in the same way.

I am not in the least surprised at the fewness of the objects found, for it must be remembered that the Toltecs did not quit their country at the close of a war, or after a conquest, but in conse-

quence of a long series of misfortunes, and that they had time for collecting their portable goods—arms, utensils, ornaments. They left behind them only such of their goods as they could not carry away—their stone idols and the remains of their ancestors. It was an emigration in the strict sense of the term, and hence we find nothing of value, no objects that were in daily use, except fragments.

But we have seen the Indian in his inner life through the relics found at Tenenepanco and at Apatlatepitonco; we are now studying him in his dwellings: we shall complete our study by viewing his public life, into which we shall be initiated by an examination of his temples and his palaces. In short, we shall pass from the phalanstery to the citadel and the temple.

Among the objects found are thick red bricks of coarse clay; this is all the more curious because hitherto we have nowhere seen baked bricks employed. The outside of every wall is of stones of every kind—*tetzontli*, bowlders, fragments of basalt mixed with clay, with casings of different sorts, some of stone cut in the shape of bricks, the whole covered with a thick layer of lime or white stucco. The floor is covered with cement two inches in thickness, very hard, and painted red. In sundry places where we have dug we have found this layer of cement, which the builders employed not only for the floor of the houses and the pavements of the courts, but also for the streets of their cities and the highways. All this reminds us of Teotihuacan, and of the great road leading from Tihoo to Cozumel at the time of the conquest.

We find also great masses of baked clay, the original form of which it is difficult to conjecture. But the most singular thing found is some charcoal incased in baked clay. What could have been the use for this we are at a loss to determine.

August 17th.—I have found out the use of the bricks. These bricks, which are very hard, are from ten to twelve inches long by from five to five and a half inches wide and one to two inches in thickness. They were used for the steps of the stairways, and were there covered with a coat of cement; they were also used in the pilasters, of which we have discovered three, and in some walls.

Usually each people, according to its origin, build of bricks, of stones, or of wood; of clay mixed with stones; or of sun-dried bricks. But here at Tula we are face to face with an eclectic people, and this is not the least interesting circumstance connected with them. To judge from the great dwelling, or group of dwell-

ings, now being explored, the Toltecs employed all these materials simultaneously. They used clay and mud for the inside of the walls; cement to coat them, cement also for their roads and for their floors; dressed stone and brick for casings; brick and stone for stairways; brick for pilasters; and wood for roofing the edifice. I find every reason for inferring that the houses had flat roofs consisting of timbers coated with cement. Of such timbers we find vast quantities. The Toltec roof was the *azotea* of the present day. Hence the builders of Tula differed in many points from the people of Palenque and of Yucatan, who built entirely of stone and mortar. But that does not in the least go to prove that the civilization of the more southern peoples was not derived from the more northern. We have had ten men at work to-day; to-morrow we shall have fifteen, and thereafter twenty.

August 18th. — So far we have discovered twelve chambers. Among the objects found to-day are two fragments of cut stone, one representing an animal, the other being an architectural ornament that is very common in Yucatan; then, there are several pieces of baked clay, ranging from the coarsest sort of brick to the finest glazed pottery. Among these fragments are some which must have belonged to enormous vases.

As I have said, the Toltecs were eclectic. Not only did they employ all sorts of materials in their buildings—clay, stone, bricks, and timber—they were eclectic also in their architecture, which as yet is quite incomprehensible to me. The apartments that have been brought to light comprise a number of chambers, big and little, placed at different heights. We shall have no clear idea of the relation of these different chambers to one another, or of the mode of access to them through the labyrinthine passages and the numerous stairways, until the whole edifice has been unearthed.

There is a very wide difference indeed between the arrangement of the chambers and the whole architecture here and the simple architecture of the palaces and other edifices of Yucatan. But the ornamentation is in many instances the same in both; as for the facial types, the vesture, and the head-gear of the warriors, they are absolutely identical; and the difference of race will account for any dissimilarities.

Among our finds I must not fail to mention sundry fragments of the casing of the inner walls, all covered with figures, either in white or in red on a black ground. I have had them photographed; they show great variety of composition. We collected a few orna-

IDOLS FOUND AT SAN JUAN DE TEOTIHUACAN

ments, also some animal remains, viz., some ribs (probably of the roebuck, though on this point I will not be positive, not being a zoologist), some small scapulas, two teeth, and, stranger still, two enormous humeruses, much larger than the humerus of the ox; both of these bones are broken longitudinally, as though to take out the marrow. We found also the radius of an animal considerably larger than a horse. Whence these bones? It is generally agreed that previous to the conquest there were neither oxen nor horses in America.

August 19th.—A good deal of work to-day, with poor results. We have now twenty men, and in a day or two we shall have completed our researches at this spot. I can not yet comprehend the architecture of our friends the Toltecs. I am fairly puzzled; it may be that this habitation is the most complicated of them all. Our finds comprise only bones of the same species as those found yesterday. In going about among the ruins I came across two stones, one of them cut in the form of a vase with a cross on one side; the other flat, with a double cross (‡), and certain ornamental figures. I also found a small cross of terra-cotta.

August 20th.—Work still goes on at the Toltec house. Our finds comprise some curious fragments—a mold, a stamp, a flint ornament, and a number of obsidian arrow-heads and knives. I am beginning to understand the distribution of the apartments in this building. We shall eventually comprehend the entire plan. I detailed a party of five men to dig at the site of a small temple or oratorio, but no result has yet been obtained.

In another edifice there were found some bones, among them a gigantic tibia of a ruminant, with the perinæum attached. Could this animal have been a bison?

August 21st.—To-day I set a force of laborers at work on a small mound supposed to contain an oratorio. But we found only a very plain platter and several pieces of cut stone. It seems evident that, tradition to the contrary notwithstanding, the buildings must have been overturned, for not a wall of the oratorio was standing.

While watching my men, I measured the pyramids. The first measures nearly one hundred and ninety-six feet on each front at the base, and it is forty-six feet in height above the esplanade on which it stands. The second, which lies north of the first, is only one hundred and thirty-one feet wide and thirty-six feet high above the esplanade.

We found again to-day bones of large ruminants—a radius thirteen inches long and 3·7 inches in diameter, and teeth from 1·5 to 1·8 inch in length. Here are the remains of unknown animals, probably of mammoth bisons, domesticated by the Toltecs, at least used by them for food. This is in contradiction of history, which affirms that the Indians had no large domestic animals. Now, would a people, after once domesticating an animal, suffer the race to die out?

But the most remarkable find of all is certain pieces of coarse delf with a blue figure on white ground, and again, pieces of fine porcelain with the same figure and the same ground. Here is a discovery that revolutionizes our notions of ancient America. No one had ever before heard of delf or of porcelain existing among the Indians of America. Did the Toltecs manufacture such wares? Or were these relics brought by them from their original home in Asia?

At another point where I had four men at work we found the remains of a human body, but the skull alone was in a condition to be added to my collection.

August 23d.—To-day we made a cast of a great bas-relief sculptured on the face of a rock near the village. I expect to complete the excavations to-morrow; we will then sketch the plan, and will endeavor to explain all the details.

August 24th.—We are continually meeting with enigmas amid these ruins. To-day I discovered a sheep's head in terra-cotta! I also found the other extremity of the mammoth humerus before mentioned, and several other bones which I could not identify.

In writing of Teotihuacan I mentioned my having found, among certain little masks of terra-cotta, figures of negroes, of Chinese, and of Japanese. I also spoke of a figure resembling the Venus of Milo; and now I find at Tula a *mold*, of which I have made a cast in stearine, which shows a European figure with the hair arranged in modern style and crowned with a braid of false hair! In some of the private collections here I have noticed all sorts of types, and I have some myself which are simply extraordinary.

August 25th.—We sometimes go far abroad in search of an explanation that stares us in the face at home. I have just met in the plaza the perfect type of the head with braided hair which yesterday I compared with the European type. Indeed, we find all types blended in Mexico. I have often seen Indians of pure blood with blue eyes.

Another find of some importance made to-day is one of the three feet of a cup (*molcazete*), covered with the remains of its enamel. It belongs to the same class as the cups found at Tenenepanco, of which I have spoken so enthusiastically. The blue, black, green, and yellow painted on the pottery still remain, after being buried for a thousand years.

The excavations at the site of the oratorio have yielded no results of any moment, and will cease to-morrow. We will then begin to dig at the site of a temple. The rains interfere seriously with our labors.

On coming from their work, my men brought me the neck of a *glass vase!* It is iridized like all glass that has been buried for a long time in the ground. On this subject I make no comments, yet I will add that nations are like individuals: they always esteem themselves to be more highly civilized than their predecessors. The Chinese, the Hindoos, the Egyptians, have left to us evidences of their genius; they understood the making of glass and of porcelain, and many other arts before we did, and to me, it is no matter of surprise that an intelligent population such as the Toltecs should have been able to erect monuments, to cut stone, to make porcelain, to invent enamel, and to manufacture glass.

Before we have done with the ruins of the Toltec habitation, we must consider briefly the question, Whence came the objects found therein? Did they come from the inhabitants themselves, or do they belong to a later date?

In a well-ordered house, such as the great house in question must have been, the inmates would never allow the bones of the animals used for food to remain in the apartments; neither would they allow the fragments of pottery or the waste of the kitchen to accumulate. The poorest and the filthiest among the Indians throw their garbage outside of their huts, and of course the lordly proprietors of a palace could not do less. Hence the refuse found in these ruined apartments belonged to other populations, or else it was the accumulation of the last few days of the unfortunate inmates before they took their departure.

August 26th.—The day was spent in clearing the ground at the site of the temple, cutting down the trees.

August 27th, 28th.—I was in error in supposing this mound to be a pyramid, and that its purpose was to support a temple. On the first day of excavation here we brought to light four chambers, and I now find myself in presence of a Toltec habitation more im-

portant than the first one. I call this dwelling a palace, because it is much larger than the other one, stands on a pyramid, and has two wings inclosing a courtyard. The walls are thicker than those of the first habitation, and more strongly built. The apartments, too, are larger, though arranged in similar fashion. As in the other, we found here fragments of porcelain and of delf and glazed terra-cotta. The delf is plainly of Indian manufacture. Six other rooms were cleared of *débris* on the second day.

September 5th.—I have just returned from the city of Mexico, whither I went to defend an action at law brought against me by the owner of the ground on which the excavations were going forward. The difference was adjusted amicably. On my return I found the work well advanced, yet not so near completion as I expected. The building is very large, and about one half of it still remains to be uncovered. I have now thirty-five men at work. The objects found are comparatively few—broken pottery, carvings broken and worn, and *three pieces of cut stone forming an arch.* The arch is small, and would appear to have stood over a doorway. I found a piece of delf brilliantly colored in blue, yellow, green, etc.

We have cleared thirty apartments of various dimensions. I am beginning to think that the corridors were not roofed, but that they served to light this labyrinth of chambers.

September 6th, 7th.—We have discovered a spiral stairway leading from the lower apartments to the upper ones. This stairway is of cut stone, and is well preserved.

September 8th.—Five men were added to-day to the force at work, making the number now employed forty. There is an enormous amount of work done and yet to be done, and the plan of this dwelling, which I will draw when the excavation is completed, will show what a magnificent edifice I have discovered. The fame of our discoveries has gone out, and we are overrun with visitors, each one desirous of taking away some memento. I am compelled to be very stern in my dealings with these people.

September 9th.—Still the same objects found—broken idols, fragments of delf, a stamp, and a piece of terra-cotta, with ornaments that are strictly Indian in character.

As I said in the note prefixed to the first of this series of papers, they are simply the impression of each day—an impression that is subject to modification at any moment by some new "find." Now to-day, though I am no zoölogist, I can not but recognize, among the many bones found in the progress of the work, jawbones of

swine, sheep, and, as I believe, of oxen and horses. Add to these pieces of plates of coarse delf—that can only have come from the Spaniards—and the inference is unavoidable that the latter inhabited the ruins of Tula in the early days of the conquest, and that they have left us, mixed with Indian mementos, the tokens of their presence here.

This in no wise lessens the interest attaching to these ruins, only we have to distinguish between the relics, and to render to each that which to each belongs.

In any event, the work we have done is an important one. The palace we have unearthed covers a surface of one hundred and sixty-five square feet, and we have had to excavate and carry to a considerable distance three or four thousand cubic yards of soil.

One thing that leads me to think that these edifices have been inhabited by others besides their builders is the fact that, on examining them closely, we discover modifications of the original plan—here a passage blocked, there an annex that seems to be at variance with the whole plan of the building.

The palace included at least forty-three apartments, large and small. In a few days I will draw the plan, and give the heights of the walls. It will be seen that these buildings at Tula are totally different from any before known.

On my return to the city of Mexico, Señor del Cartillo, Professor of Zoölogy in the School of Mines, on examining the bones of animals found at Tula, pronounced them to be the remains of *Bos Americanus*, horse, Andes sheep, llama, stag, etc., and *fossil!* If his judgment is confirmed by that of the *savants* of Paris and the Smithsonian Institution, a new horizon is opened for the history of man in America. My victory will then be complete, as I shall have brought to light a new people, and a city unique in its originality, and shall have opened to the learned a new branch of natural history. Surely this were enough to satisfy the most ambitious investigator.

DÉSIRÉ CHARNAY.

THE DISTRIBUTION OF TIME.

FROM time to time during the last twenty years there have appeared articles in the public prints which indicated an awakening and growing interest in the practicability of having wide sections of our country transact its business and govern its social duties by a common time. Within the last few years official reports from various observatories, departments of the Government, scientific societies, and the telegraph companies, have shown so considerable a progress in the introduction of uniform systems of time, and these systems have been so cordially received by the communities interested, that there can be no doubt that the country is ready to be divided into a few great sections, each of which shall be governed by its own standard, which shall bear some simple relation to the standards governing the neighboring sections.

The principal systems now in operation comprise the United States Naval Observatory system, which extends its distribution of Washington time to Chicago and the West; the Harvard and Yale systems, which distribute, respectively, Boston and New York time over New England; the Alleghany Observatory system, which is concerned chiefly with the Pennsylvania Railroad; and the more local services emanating from the observatories at Albany, Chicago, Cincinnati, and St. Louis. Unfortunately, except in New England, the distribution of the time of an observatory has not always resulted in the adoption of that time for general use, and it is often the case that the local jewelers who are the guardians of town-clocks, and local time as well, will convert the time received by telegraph into their own local time, and thus make it inconveniently different from the time in use in any other city of their region.

A railroad may or may not secure the adoption of its own time in the cities along its route. It is generally a question as to which is the most important, the railroad or the town. But certain it is that there is not an important railroad in the country, outside of New

England, along which the commercial traveler may go without having to compute the discrepancy between his watch and the time kept by the business men at one half the stopping-places. Thus it happens that, even where cities are closely connected by large railroads, the people have been dictated to by their jewelers regarding their standard of time, when a little reflection shows that there is only a very questionable advantage arising from having a local time simply because the jewelers of the city insist on a time which shall appeal to the local pride of their customers.

On the other hand, the disadvantage of having the factory operatives begin work on railroad time and stop on local time, because they gain ten minutes a day by that sharp practice ; the jostle and inconvenience in the commercial interchange between two neighboring cities, because the stock-exchanges, business offices and the banks, close with a difference of ten minutes ; the thousand engagements broken by the discrepancies of time—all indicate the need of the adoption of such a common time as already exists in the European countries.

The writer has always felt that the railroads ought to be the most influential means in securing uniformity. They can be successfully appealed to for the financial support which any accurate system demands, because they have a direct and strong interest in the use of the same time at every office and by every employee of their roads. The superintendents, too, with whom the decision of such matters generally rests, are keenly alive to anything which lessens the risk of accident, and they at once appreciate the advantage of having the clocks of intersecting roads, and of the towns through which their roads pass, all indicate the same time. The control of a telegraph wire for railroad business gives them the means of transmitting time-signals, and in New England it is the railroads which have virtually caused the all but universal acceptance of the Boston and New York standards referred to. Outside of New England there has been scarcely any concert of action among the railroads, and there are about seventy different standards of time in use. The result of the experiment in New England fairly justifies the belief that, were the railroads in the rest of the United States approached on this question, they would combine to adopt the standards of time now used by a few of the great centers of population. Thus, while it was found quite impossible to unite the New England roads upon Boston time, and while it would have been equally impossible to cause the Boston roads to run on New York time, it has proved

highly satisfactory to allow the current of travel, which always drifts toward the nearest center of population, to decide the matter. To bring into use in a large section of the country two standards, where before there has been a dozen, is the first step toward uniting the two into one; and, in the writer's opinion, it is only by a gradual amalgamation of different local times that the final adoption of a few standards for the whole country can be effected. As a rule, railway corporations are more intelligent on this subject than the town councils which are elected by popular suffrage. They are also urged to encourage uniform time by their own interests. They are under the direct influence of State legislation, and the agreement of a number of railroads can be made to influence the communities of the regions traversed to use the railroad standard. Whether the pressure of State legislation ought to be used is an open question. It has been the writer's experience that the railroads are quite willing to do their part without recourse to any such means; and with the average railroad official the fact that a service is to be enforced by legislation prejudices him against it.

The difficulties in the way of introducing a new standard would still further be reduced if the observatories universally took care to distribute a time which should be as accurate as human art could make it, and use only such simple means of rendering it available as could allow of no vitiation of the message over the time-telegraph wires. By so doing the observatories would, so to speak, have a monopoly of the best article in the market, for no private jewelers could hope to furnish the local time with the precision obtained in a first-class observatory, where every means is taken to insure accuracy. There is, however, little use in trying to supplant a local time which is furnished by a respectable jeweler who takes good care of a good clock, and who has acquired the art of determining his time carefully, if the new system of signals is not to be relied upon within a single second. Unfortunately, the example set the time-services of the country, by that under the direction of the Naval Observatory at Washington, is not of the best; and, until it is realized by the proper officers that a division of responsibility in the charge of delivering time-messages results in the inaccuracy of the service to the public, the services organized under the control of universities will occupy the first place for accuracy.

The best, because the most unmistakable in its indications, of the means yet proposed for the distribution of a public time consists in the ordinary telegraph receiving-instrument, which is brought

into circuit with the observatory clock at stated intervals. The clock then automatically beats in such a manner as to indicate the beginning of the minute, or of the five minutes, which have been agreed upon for the reception of the time by telegraph.

Experience has shown that the average railroad employee or telegraph operator very quickly apprehends this method of transmission, and, since the clock effects the distribution automatically, if the signals are received at all they must be exact. The very tempting method of propelling the hands of clocks by electricity has never been successfully applied over extended areas; and the nearest approach to an accurate service from a distant observatory takes place when the pendulum of the clock at a distance from the observatory is moving in sympathy with the observatory clock, through the action of induced electrical currents. A very good example of this kind may be seen in the Treasury clock, at Washington, where one of the Observatory clocks controls it, beat by beat, through the intervention of a mile of telegraph-wire. In this system, which is commonly known as Jones's system, the interruption of the telegraphic circuit, by storms or otherwise, does not cause the controlled clock to stop, as in the systems above referred to; but one can never be sure, when the current is restored, that the controlled clock will not have deviated during the stoppage of its control; and this method has not proved successful where high accuracy is demanded, or the telegraph lines are liable to such interruptions as are common in our climate. This method, however, has found considerable favor in England, and the writer had little difficulty in using a clock, so controlled, at the end of a well-protected wire four miles distant from the Observatory of Harvard College. It was not, however, perfectly reliable, and errors of from two to ten seconds were sometimes found to exist in the controlled clock.

Of the new method, which originated, we believe, in Vienna, and has made its way as far westward as Paris, of setting clocks by means of pneumatic tubes, there can be a great deal said on the score of economy, when the system is applied to large cities. It certainly would be a popular idea to have the time laid on, as the water or gas is, from a small pipe passing the door. The special clock needed would be furnished and kept in order by the payment of a small annual rental. The expense would be trifling as compared with any system yet suggested of equal accuracy, and the field is so promising that it would be strange if attempts were not

soon made in our large cities to occupy it. But such or any similar systems for the local distribution of time will depend upon the accurate and regular reception of the standard from an observatory which may be several hundred miles distant; and for this principal service, as well as for the railroads, the writer has already expressed the opinion that the transmitting and receiving apparatus of the telegraph companies, in connection with an observatory clock, affords the best, as well as the simplest, means.

So much for the public distribution for commercial and social purposes. There is another and extremely important service, too much neglected in our country, in behalf of the merchant marine. The Royal Observatory at Greenwich justly considers the accurate dropping of the time-balls on the English coast of almost equal importance with the transmission of time over England. A similar service should be undertaken by our own Naval Observatory, and the suggestions embodied in Professor Holden's report to the Secretary of the Navy,* on this subject, receive the cordial support not only of the officers of the navy and of the merchant marine, but of those men of science whose attention has been called to the lack of such a service at the important ports of Philadelphia, Baltimore, and San Francisco.

Such a service is performed for the port of New York, though not with the assurance of accuracy we have a right to expect in such a Government work. The Observatory of Harvard College, in connection with the United States Army Signal Service, drops a time-ball for the benefit of Boston Harbor, and perhaps there is no one public signal of the Harvard Time Service which is received with more public favor than this, not only by the commanders of vessels lying in the harbor, but by the people living on the surrounding highlands, and numerous factories and institutions from which the signal is visible. This signal owes its existence to the public spirit shown by the Equitable Life Insurance Company, of New York, in erecting the apparatus necessary upon the top of their magnificent building. The time-balls in Boston, New York, and Washington, have thoroughly ingratiated themselves in the public favor.

The cost of the construction of a time-ball of the best materials and of sufficient size, with the electrical apparatus necessary, is about a thousand dollars, and, although it is the most accurate signal for popular use, yet the time-gun has many advantages, on the

* Report of the Secretary of the Navy, second session, Forty-fourth Congress.

score of economy and convenience, over the more exact time-ball. The time-gun could be extemporized from one of a battery, at any place where there is a detachment of the artillery service permanently located. Of course, there is an error owing to the time required for the sound to traverse the distance from the gun to the hearer, but this is insignificant for ordinary purposes, and it is not necessary to take any other trouble than to merely listen for the report of the gun which is known to be discharged by an electrical current from some observatory at an arbitrary instant. The time-guns have shown themselves to be very popular in Great Britain and on the Continent ; and if our army, either through its Signal Service or the artillery, could act in concert with observatories in different parts of the country, the discipline necessary for the efficient performance of such a service would be obtained, and the service would be extremely popular among the people.

Doubtless the Naval Observatory could assist in distributing the time to the whole country, but there are several reasons why it would be inexpedient for many years to come. That observatory has a legitimate sphere in fostering astronomical science throughout the country, and in performing such services as are directly for the benefit of the navy and other Government offices.

There are several observatories, particularly in our Western cities, which rely for a large share of their hold of the popular sympathy upon the public time-signals which they furnish. So long as they are strongly interested in the growth of their local service, they will do missionary work for science by interesting the people in the observatory which gives them their time.

Now, let these communities be approached through the offices of the telegraph companies acting as the agents of the Naval Observatory, and the majority will at once feel, with some truth, that the matter is no longer one of science and the patronage of a local or State institution, but that the telegraph companies are urging for their own profit the introduction of a service for which the people have not sufficient need to pay the price charged. In support of this view it might be mentioned that under date of April 2, 1877, our most prominent Telegraph Company issued an official circular through the agency of its principal local offices throughout the United States, which urged the importance of accurate time, and made financial proposals to furnish the Naval Observatory time to seventy-eight cities of the United States once a day, at a charge varying from seventy-five to five hundred dollars per year for each

place. So far as the writer knows, there has not been a single acceptance of these proposals, and even one or two acceptances might be considered exceptions to a rule. Another difficulty is the cost of the service to cities which are far distant from the distributing office. The telegraph companies justly claim that this service ought to be paid for at a higher rate than ordinary business messages because it is preferential, and all other business must cease at a given time. This arbitrary stoppage may sometimes prove highly inconvenient, and presupposes a thoroughness of discipline among employees which it is difficult to maintain over the long lines of our Western country. The service to be popular must be quick to redress grievances, and accommodating in the details of its work, particularly at its initiation. It is evident that these agencies are best insured by having the friendship toward the observatory of an important class in the community somewhat dependent on the efficiency of its time-service.

The furnishing of correct time is educational in its nature, for it inculcates in the masses a certain precision in doing the daily work of life which conduces, perhaps, to a sounder morality; and this idea will not seem far-fetched if we consider how strikingly indicative of the character of a people in the scale of civilization is the promptness with which they transact their business. It is felt, therefore—and particularly in New England—that the university does a creditable action when it directly encourages the distribution of time from its observatory. This view will be adopted by the Western institutions of learning as they gradually rise to the dignity of having distinct observatories connected with them.

At the last meeting of the American Association for the Advancement of Science, in Boston, a committee was appointed to urge the adoption of uniform systems in various parts of the country. This committee includes the representatives of the observatories which have done most in this cause.

The American Metrological Society, through a committee, have presented a carefully prepared report on the present condition of this question in the United States.* It is the opinion of that committee that the standards of time for the various parts of the country should differ by even hours, beginning with the meridian which is just four hours west of Greenwich, and designating the systems as in the last column of the following table:

* "Proceedings of the Metrological Society," vol. ii. New York: Published by the Society.

PROPOSED SCHEDULE OF STANDARDS OF TIME.

GEOGRAPHICAL SECTION.	STANDARD MERIDIAN.	TIME SLOWER THAN GREENWICH.	DESIGNATION.
Newfoundland New Brunswick Nova Scotia, etc	60° west.	4 h. 0 min. 0 sec.	Eastern time.
Canada Atlantic States Ohio to Alabama Lower Lakes	75° "	5 h. 0 min. 0 sec.	Atlantic time.
Mississippi Valley Missouri Upper Lakes Texas	90° "	6 h. 0 min. 0 sec.	Valley time.
Rocky Mountain region	105° "	7 h. 0 min. 0 sec.	Mountain time.
Pacific Slope British Columbia Vancouver's Island	120° "	8 h. 0 min. 0 sec.	Pacific time.

The constitution of both of these committees is such that they would favor the distribution of standards of time according to any such scheme as the preceding rather than the distribution of a single time from the Naval Observatory. The above scheme, in the opinion of those who have given most thought to the subject, is the best one so far presented. It was due originally to Professor Benjamin Peirce, and its great merit consists in there being no greater difference than half an hour in any part of the country between the true local time and the arbitrary standard—an amount but slightly greater than exists between Greenwich and the west of England. In passing from the Ohio into the Mississippi Valley, for instance, the traveler merely changes his watch by one hour; and the merchant, remembering that Pacific time is three hours slow of Atlantic time, knows that it is half-past two in San Francisco when it is half-past five in New York.

Any scheme which proposes the adoption of a uniform time from one extremity of the country to the other must be looked upon as chimerical for a century to come. Ten o'clock in the morning at once conveys to our minds an idea of the average occupation of our people at that time; it is associated with a certain brightness of daylight; it means that the working-classes have been occupied with their daily task about three hours; we expect to find the majority of banks and shops open; and any disturbance of these traditional times would be received with marked disfavor. To learn, for

instance, from the morning paper that a distinguished public man had arrived in San Francisco late in the evening, and, fatigued with his journey, had retired at seven o'clock, would give the Eastern reader a sense of the utter strangeness of keeping a time three hours different from local time.

Any action for the establishment of standards of time over the country must begin by securing the active coöperation of the telegraph companies. The most influential of these companies has been traditionally public-spirited in allowing the use of its wires for scientific purposes, often at considerable expense to itself. The service of transmitting time occupies at present such an extremely small proportion of its ordinary business that the company has not as yet an officer of its service empowered to carry out the details necessary for such time-distributions as have been already discussed. If, however, the committees referred to could prepare a scheme that was thoroughly practical, and agree upon a uniformity of details which should not seriously interfere with the ordinary business of this or any other company, it is believed that the company would find it to their own interest to establish a regular system of procedure to govern their action in the case of observatories in different parts of the country which desire to secure their services in transmitting time-signals. In consideration of the assumption of responsibility and the efforts at introduction made by the observatory, the company would probably be found willing to so adjust their charges that it would prove to be entirely practicable for the various observatories to secure a large patronage for the services emanating from them without the financial burden seeming an undue amount.

LEONARD WALDO.

THE PUBLIC-SCHOOL FAILURE.

THERE is probably not one of those various social contrivances, political engines, or modes of common action called institutions which are regarded as characteristic of the United States, if not peculiar to them, in which the people of this country have placed more confidence, or felt greater pride, than its public-school system. There is not one of them so unworthy of either confidence or pride; not one which has failed so completely to accomplish the end for which it was established. And the case is worse than that of mere failure; for the result has been deplorable, and threatens to be disastrous.

To those who have not thought upon this subject, or who have thought upon it vaguely, and without careful and considerate observation of all the facts which bear upon it, this assertion will savor strongly of temerity and folly. The belief that education—meaning thereby the acquiring of such knowledge as can be got in schools and from books—is in itself elevating and purifying, and is the most potent agency in the formation of good men and good citizens, is so general and so plausible, that it has been assumed as an axiom in that which, for reasons that do not yet quite clearly appear, has come to be called "social science." If this assumed axiom were well founded, if it were really true that book-learning and thrift, decency of life, and good citizenship, are so directly connected that they must always be found together, it need hardly be said that this sort of education would be of the first necessity in every wisely constructed and well-ordered society, and would be of supreme necessity in a country in which every man who lives outside of prison walls has a voice in the government. Hence, the assumption on this point being what it is and has been for many generations, it would be strange indeed if public education had not been a subject of grave consideration early in the short history of the United States,

and if it had not been amply provided for by legislation. The provision was early made; and public education at public cost has been so general here, and has been developed into a system so vast and so complete, that a better opportunity for testing its worth could not be hoped for. The conditions, too, under which this system has been in operation are singularly favorable. The wealth of the country, its vast expanse of uncultivated, unoccupied land, a homestead in which can be acquired at an almost nominal price, the general intelligence of the people, their freedom from burdensome taxation, the absence of privileged classes and of an established religion supported by the state, make its people one upon which education, according to the assumed theory, should have the happiest, the most benign effects. But, however great may be the intrinsic value of education as a formative social agency, the effect of that which is afforded by our public-school system has proved in every way unsatisfactory and worse than unsatisfactory.

That the system is of New England origin need hardly be said. It is a development of the New England common school, from which it has been gradually evolved under gradually accumulating influences, some of which were pure and philanthropic, but other some of which were corrupt and self-seeking. The former may be called social; the latter political—using the word in that narrow and derogatory sense which it has unhappily acquired in our discussions of public affairs. In Massachusetts, in the year 1647, and in Connecticut only three years later, it was enacted that every township of fifty householders should appoint a person within their town to teach all children that should resort to him to write and read, whose wages should be paid by either the parents or the masters of such children, or by the inhabitants in general; and it was also ordered that, in every town of one hundred families, there should be a grammar-school set up, the masters of which should be able to fit youths for the university; a grammar-school being then a school for instruction in the Latin language; English grammar and the teaching of it to English-speaking children remaining yet unimagined, and to men of that time almost unimaginable. This system of compulsory support of common schools and grammar-schools spread itself over all New England and throughout those Northern and Western States which were more or less under New England influence.

The history of public education in the city of New York is of such importance as to merit special although brief consideration.

The act establishing common schools in the State of New York was passed in 1812. Before that time money was expended by the State for the encouragement and support of schools; but there was no public-school system. The law of 1812 applied to towns and villages, but not to chartered cities, with two or three specified exceptions. New York was not one of these. Public education in that city was in the hands of the Public-School Society, a voluntary association, chartered, and in its standing and motives something like the New York City Hospital. I have not been able, in the time that I could give to this subject, to find the act incorporating this benevolent society; but I find so early as the year 1807 an act for its benefit, of which the preamble is as follows:

Whereas, The trustees of the Society for establishing a Free School in the City of New York, for the education of such poor children as do not belong to or are not provided for by any religious society, have by their memorial solicited the aid of the Legislature; and whereas, their plan of extending the benefits of education to poor children, and the excellent mode of instruction adopted by them, are largely deserving the encouragement of government: therefore," etc.

This makes the original purpose of common-school education in the city of New York sufficiently clear. It was intended for poor children whose education was not provided for by any religious society. But, in fact, its benefits were gradually extended to others —children not at all dependent upon charity. The character, the spirit, and the purpose of the Society remained, however, unchanged. It sought to give elementary instruction and moral training to children who would otherwise have been more or less neglected in these respects. The benefits of a corresponding plan of education were conferred upon the people of the State at large by the law of 1812, which established a common-school system of a somewhat rudimentary nature; but the city of New York remained without provision by law for public education until the year 1842, when the Legislature passed an act extending to the city a participation in the system which prevailed in the State. But the act not only did this, it placed the schools of the Public-School Society, with those of the Orphan Asylum, of the Roman Catholic Orphan Asylum, and of several other benevolent societies, under the jurisdiction and supervision of the Board of Education. Finding themselves in this position, the corporators of the Public-School Society transferred their schoolhouses, and all their other property, with their rights, to the Board of Education, and the Society ceased to exist. It was not

long before other school societies followed their example. This event was a public calamity—a calamity not only to the city of New York, but to the State; not only to the State, but to the whole country. Nor has the blight of its effect upon morals, upon politics, and upon education been confined to the country in which it first was felt. At that time our present public-school system may be properly said to have begun its rapid formation. From that time public education passed rapidly into municipal politics, and became an engine at once of political corruption and social deterioration. The example of New York was widely followed, actually if not avowedly. On all sides there was a cry for higher education; and as higher education meant more teachers to be appointed and paid, more schoolhouses to be built, more text-books to be bought by the tens of thousands, and, in brief, more money to be expended, the local politicians, who with anthropomorphic devotion worshiped their own glorified and gigantic likeness in the Hon. William Tweed, did all in their power—and their power was great—to foster the higher education. Admirable, far-seeing, large-minded, philanthropic statesmen! They fostered the higher education until, as I was told about ten years ago by a publisher of school-books, there was no department of his trade so profitable as that in which he was chiefly interested, but that to "introduce" a set of two or three text-books into public-school use cost between fifty thousand and one hundred thousand dollars (for what, pray let us know, O philanthropic dispensers of the healing light of education?); and until now there is a College of the City of New York, as a part of its common-school system, and a Normal School, at which fifteen hundred young women are instructed yearly in the mysteries of teaching, which but a very few of the fifteen hundred practice, mean to practice, or have the opportunity to practice; and until the sum of $3,805,000 is spent upon public education by the city of New York alone, of which sum no less than $1,009,207 is paid to teachers of primary departments.*

And such, in a great measure, has the "American" system of public education become in all the country lying north of the Potomac and the Ohio.

Nearly four million dollars taken in one year from the pockets of tax-payers of one city for education—more than a million

* These figures are from the "Report of the President of the New York Board of Education" for 1879.

dollars paid to teachers of primary schools, and a similar expenditure throughout the State and in more than half the States; and what is the result? According to independent and competent evidence from all quarters, the mass of the pupils of these public schools are unable to read intelligently, to spell correctly, to write legibly, to describe understandingly the geography of their own country, or to do anything that reasonably well-educated children should do with ease. They can not write a simple letter; they can not do readily and with quick comprehension a simple "sum" in practical arithmetic; they can not tell the meaning of any but the commonest of the words that they read and spell so ill. There should not be need to say that many of them—many in actual numbers—can do all these things fairly well; but these many are few indeed in proportion to the millions who receive a public-school education. They can give rules glibly; they can recite from memory; they have some dry, disjointed knowledge of various ologies and osophies; they can, some of them, read a little French or German with a very bad accent; but as to such elementary education as is alike the foundation of all real higher education and the *sine qua non* of successful life in this age, they are, most of them, in almost as helpless and barren a condition of mind as if they had never crossed the threshold of a schoolhouse.

The testimony to this amazing and deplorable condition of the mass of the pupils of our public schools is so varied, so independent, and comes from so many quarters that it must be true; it can not be disregarded. It is given by private persons, by officers of school districts, by teachers themselves; and it comes from all parts of the country. It can not be repeated here in detail, for it would fill half the pages that can be afforded to this article. But one example of it may be given, which fairly represents the whole. Mr. George A. Walton, agent of the Massachusetts State Board of Education, in a report on the public schools of Norfolk County, Massachusetts, a county which borders upon Boston, and the inhabitants of which are somewhat exceptional in wealth and intelligence, sets forth a condition of things which has thus been graphically but correctly summarized by the Chicago "Times":

> The examinations were, in the first place, of the simplest and most practical character. There was no nonsense about them. They had but one object—to see if, in the common schools, the children were taught to read, write, and cipher. . . . The showing made by some of the towns was excellent, and of them we shall speak presently. In the case of others, and of

many others, it is evident from what Mr. Walton says, and still more evident from what he intimates, that the scholars of fourteen years of age did not know how to read, to write, or to cipher. They could, it is true, repeat the pieces in their school readers, and parse and spell in classes, and rattle off rules in grammar and arithmetic, not one word of which they understood; but if they were called upon to write the shortest of letters or the simplest of compositions, or to go through the plainest of arithmetical combinations, their failure was complete. They had, in fact, been taught what to them were conundrums without end; but the idea that the teaching was to be of any practical use in the lives of these children, when they grew to be American men and women, formed no part of the system, and evidently had never entered into to the heads of the instructors. . . . Then, when the letters and compositions were brought in, the ingenuity in bad spelling seems simply incredible. Unless the different misspellings of the word "scholar," for instance, were given, as in this volume they are, who would believe that they would be some two hundred and thirty in number? Then, again, sixty-five different spellings are enumerated of the word "dépôt"; one hundred and eight of the common word "whose," and fifty-eight of "which." Out of eleven hundred and twenty-two pupils who used the adverb "too" in the narratives, eight hundred and fifty-nine, or nearly seventy-seven per cent. of the whole, spelled the word incorrectly. Then on pages 218, 219, and 246–248 of the report we are given *fac-simile* lithographs of these letters and compositions, showing their average excellence in certain of the towns, and anything worse it would be hard to conceive. Language fails to do justice to them; they only can do it to themselves.*

This is the intellectual result of the operation of our much-vaunted "American" public-school system during the last thirty or forty years. Competent observers in all quarters tell the same story. In the year 1875 it was officially recorded that the candidates for cadetship at West Point had shown a steady deterioration in thoroughness of elementary knowledge during the then last twenty-five years. It is needless to waste more words in setting forth a fact equally sad, disgraceful, and undeniable.

Nor need we look very far for information which is both corrob-

* Mr. Walton's report is before me, and I am able to bear unqualified testimony to the unexaggerated truthfulness of this summary setting forth of the case which he presents in great detail. I have quoted this passage less for convenience' sake than that the reader might see how widely a judgment against the efficiency of our public schools is beginning to be diffused. Mr. Charles Francis Adams, Jr., in his paper on "The New Departure in the Common Schools of Quincy," says of an examination of those schools by competent and impartial gentlemen in 1873: "The result was deplorable. The schools went to pieces. . . . In other words, it appeared, as the result of eight years' school-teaching, that the children, as a whole, could neither write with facility nor read fluently."

orative and explanatory of this lamentable and almost ridiculous failure of public-school education. The system soon began to bring forth its proper fruits. The Superintendent of Public Instruction in the State of New York, in the eighth annual report from his office, presented to the Assembly in 1862, after discussing in general terms the "limited knowledge" among a "large proportion" of the teachers of "that which all teachers ought first to know," a deficiency which had been found a "source of embarrassment," said:

> Many [teachers] who have been over a very extended ground of higher mathematics fail utterly in the simplest principles of mental and practical arithmetic. More have spent busy terms in the study of the classics, but have no knowledge of the first principles of their own language; while to find one who knows anything of the geography of his own, much less of foreign lands, is rare good fortune indeed! And yet these are not novices, but representative teachers, as the average term of their experience shows (p. 39).

We have here revealed to us the condition into which public education had been brought by twenty years' experience of our public-school system—a period just about long enough to mature a second generation of teachers under the influence of that system.

This being the mental condition and the educational equipment of teachers, what may we reasonably look for in their pupils—the time having not yet come when men may gather grapes of thorns or figs of thistles? Mr. Walton's Norfolk County report might have been written in advance by any man gifted with moderate power of forecast. As a mere imparter of useful knowledge the public-school system has failed utterly.

And now let us consider that system in relation to the reason, the only reason, which justifies its establishment. It is supported by enormous sums of money taken by process of law from the pockets of individuals. Will he, nill he, every man who has property is compelled to pay for the education of other men's children in schools to which he may or may not wish to send his own children, if he has any. The only possible justification for this forcible appropriation of his money is, that it is for the public good, for the common wealth, that the system for the support of which his money is taken affords security for life, liberty, and property which without that system would be lacking. And this is the reason for it, and the only reason that is avowed. It has recently been set forth very clearly by an able and highly esteemed public-school officer, of high position, in a passage which is a very complete expression

of the *raison d'être* of our public-school system. The Superintendent of the Board of Education of the city of New York (one of the most high-minded and capable members that board has ever had), in his report for 1879, thus remarks :

> In our day, and in the condition of American life, we need all the power of an educated intelligence in order to lift the masses, as well as to maintain an equilibrium in the forces of society. The distribution of knowledge is as necessary as the distribution of light. We need the distributive power of systems of education which will reach the lowest abodes and penetrate to the farthermost hamlets of the land. The best education of the people will thus become the best government of the people (p. 27).

Here we have the professed, and the honestly believed social and political theory upon which the public-school system rests. It is to lift the masses. Knowledge is as necessary to healthy social life as light is to healthy physical life. If education reaches the lowest abodes, we may then, and only then, have the best government of the people.

The theory is not merely unsound, it is utterly and absolutely false. Knowledge will not lift the masses, except as a balloon is lifted, because it is inflated with gas. Mere knowledge does not raise the quality of men's moral natures. Knowledge is light indeed to him who can see, and who can think and feel rightly as to what he sees ; but mere intellectual light, without moral warmth, will not produce a healthy social life, any more than a healthy physical life can exist in the light of a thousand suns without the genial warmth of one. The road to the best government of the people does not lie only through the door of the public schoolhouse.

This theory itself, however, is the natural fruit of a belief which has obtained general acceptance, and which is embodied in an adage that, like so many adages, is fallacious, and yet is received without question because of its sententious form. It seems conclusive, and it saves people the trouble of observing and of thinking. This adage is, "Ignorance is the mother of vice." Among all the hundreds of adages, which are supinely accepted and blindly acted upon, there is hardly one which is more at variance than this is with the truth. On the contrary, the teaching of the world's experience through all past ages, and in the light of the present day, is this :

Ignorance is the mother of superstition, but has no relation with vice.

Ignorance has, indeed, a certain relation with vice—a relation which, however, is merely one of frequent coexistence. But coex-

istence does not imply connection. It no more implies connection than sequence does. That which follows is not necessarily the consequence of that which goes before. *Post hoc* does not imply *propter hoc*. Equally true is it that two things found often, or even generally, together have not necessarily the relation of cause and effect, nor even that of identity of cause. Vice may, and often does, flaunt unpalliated by ignorance; ignorance may, and often does, walk with its humble purity untainted by vice. Some of the most vicious men that have ever lived have been well instructed, accomplished, and even learned. Some of the purest and best have been ignorant—so ignorant that they could read and write hardly better than the majority of the pupils of our public schools. Ignorance and vice are so frequently found together, not because the former is the cause of the latter, but because both—but chiefly the former—are the common companions of poverty. Want, if not the parent of vice, is at least its faithful foster-mother. One among the proverbs that really embody the truth of the world's experience is that which tells us, "It is hard for an empty bag to stand upright." Becky Sharp said that she could have been a good woman if she had had five thousand pounds a year. The goodness of the Becky Sharps of this world, under any circumstances, is but skin-deep, like their beauty; but beauty is none the less sought for and longed for; and so decorous behavior and decent life are all that society can demand, no matter what their motive. Thackeray, in this speech of his greatest creation, lays bare the nature of all vice. Vice is the satisfaction of personal wants without regard to right. Now, as the obstacle to the satisfaction of wants is almost always the lack of means, that is of money or its equivalent, the result is that most vice is directly connected with the need of money. The fact that the need may be actual and healthy—as for the necessities and comforts of life, or fictitious and fanciful—as for luxuries of whatever sort, does not impair the truth of the axiom that need is the motive to the vicious life. Hence it is that poverty and vice are so often found together, and that, poverty being so common, vice is so common. There are thousands of humble Becky Sharps, and of their male counterparts, in every town and county in the country.

If ignorance were the mother of vice, and if our public-school system were what it is set up to be, the fruits of the latter would by this time have been manifest, plainly visible to the whole world, in our moral advancement as a people, in a higher tone in our society, in the greater purity of our politics and the incorruptibility of our

legislators, in the increased probity of the executive officers of our State and municipal governments and of our corporate financial bodies, in the superior wisdom and more solid integrity of our bench, in the sobriety of our matrons, the modesty of our maidens, in the greater faithfulness of wives, in the diminution of divorces, in the steady decrease of vice and crime and idleness and vagrancy and vagabondage. If ignorance be the mother of vice, and the public school is the efficient foe of ignorance, the last fifty years should have seen in all these respects an improvement so great that admiring nations would applaud and humbly hope to imitate. But who needs to be told that in all these respects we have deteriorated? It is not Horace's praiser of the days when he was a boy that tells us this. It is a matter of public record. It is known to every observant man who has lived more than thirty years. Our large towns swarm with idle, vicious lads and young men who have no visible means of support. Our rural districts are infested with tramps—a creature unknown to our fathers, and even to us in our youth. The corruption of our legislative bodies is so wide and so deep and so well known that great corporations and business men of large wealth can almost always obtain the legislation needful for their ends, right or wrong. Bribery at elections is almost openly practiced by both our great political parties. The general tone and character of our bench, both for learning, for wisdom, and for integrity, have fallen notably during the last thirty years. Dishonesty in business and betrayal of trust have become so common, that the public record of the last fifteen years on this subject is such that it can not be remembered without shame. Politics, instead of being purified and elevated, has become a trade in which success falls year by year more to inferior men who have a little low cunning. Divorces have multiplied until they have become so common as to be a stock jest in the facetious column of our newspapers. Crime and vice have increased year after year almost *pari passu* with the development of the public-school system, which, instead of lifting the masses, has given us in their place a nondescript and hybrid class, unfit for professional or mercantile life, unwilling and also unable to be farmers or artisans, so that gradually our skilled labor is done more by immigrant foreigners, while our native citizens, who would otherwise naturally fill this respectable and comfortable position in society, seek to make their living by their wits—honestly if they can; if not, more or less dishonestly; or, failing thus, by petty office-seeking. Filial respect and parental love have both

diminished; and, as for the modesty of our young men, and even of our young women, they do not even blush that they have lost it. This is the condition in which we are after more than half a century of experience of our public-school system, the only justification for whose existence is that it was asserted and believed to be a panacea for the cure of social and political disease. Nor is the case of that system at all bettered by the quite untenable assumption that all this would have been without its influence; for its only justification, the very reason of its being, is the other assumption, that by it all this would have been prevented.

Moreover, there is evidence on record, evidence furnished quite independently of any investigation of this subject, which proves the case against the public-school system as clearly and as undeniably as the truth of Newton's theory of gravitation is proved by the calculations which enable astronomers to declare the motions and to weigh the substance of the planets. For the census returns show that crime, immorality, and insanity are greater in proportion to population in those communities which have been long under the influence of the public-school system than they are in those which have been without it. The system, be it remembered, is of New England origin, and the New England States have been longest under its influence. The States south of the Potomac are those which were longest without it; and, indeed, in them it has hardly yet obtained favor or foothold. Let us compare the statistics of population, of literacy and illiteracy, and of crime in these two classes of States, carefully eliminating from our calculation the influence of foreign immigration upon the criminal record of the Northern States, which the particularity of the census returns enables us to do. The comparison is between the native white populations of Massachusetts, Connecticut, New Hampshire, Vermont, Maine, and Rhode Island on the one hand, and the same population of Delaware, Virginia, Maryland, North Carolina, South Carolina, and Georgia on the other. These are all original States of the Union, Maine excepted; but Maine was always a part of New England. They are commonwealths founded at about the same time, by people of the same race and the same religion. In 1860 secession and consequent civil war caused in the Southern States an upturning of all the elements of society, which makes it proper that the examination of their social condition should be limited by the census of that year.

The census of 1860 shows that the New England States had a

native white population 2,665,945 in number, and of these there were but 8,543 adults who could not read and write. The six Southern States mentioned above had 3,181,969 native white inhabitants, among whom there were 262,802 adults who could not read and write. In the New England States, therefore, the native whites who could not read and write were in the proportion of one to 312, while in the six Southern States the proportion of wholly illiterate whites was one to 12. Now, if ignorance is the mother of vice, of crime, of wretchedness, and of all that goes to make bad citizens, the excess of the criminal classes in the Southern States should have been in something like the proportion of 312 to 12. But it was not so. On the contrary, the proportional excess of crime, of pauperism, of suicide, and of insanity (and among the native white inhabitants, be it remembered) was very much greater in the New England States; for in 1860 they had in their prisons 2,459 criminals, while the six Southern States had but 477. New England society, formed under the public-school system, produced one native white criminal to every 1,084 inhabitants; while the Southern States, which had been almost entirely without that system, produced only one to every 6,670—a disproportion of more than six to one!* The New England States had one publicly supported pauper to every 178 inhabitants, while the six Southern, which were without public schools, had but one to every 345. Of suicides, there were in the New England States one to every 13,285 of the entire population; but the others had only one to every 56,584. The census of 1860 has no record of insanity; but that of 1870 shows in New England one insane person of those born and living in the several States to every 800 native-born inhabitants; but in the six Southern States in question only one to every 1,682 native inhabitants. Strange to say, foremost in this sad record stand Massachusetts and Connecticut, which have had common schools since 1647 and 1650 respectively, as was remarked in the beginning of this article; the former pro-

* The well-known fact that homicide is more common in the Southern States than in the Northern is of no importance in the consideration of these statistics. It merely shows that to the mass of crime in the one case homicide bears a large proportion, and to the mass of crime in the other a very small one. And it is to be remarked that of the homicides in the Southern States a very large proportion, springing as they do from an antiquated perversion of the sense of honor, semi-savage as they often are, are generally less base and vicious in motive than the comparatively few murders in the Northern.

ducing one native white criminal to every 649 native white inhabitants; the latter, one to every 845.*

The significance of these facts and figures can not be mistaken or explained away. Does it therefore follow that knowledge is incompatible with virtue, thrift, good citizenship, and happiness, and that education is *per se* an evil? Not at all. But it does follow that ignorance is not the mother of vice; that ignorance has no necessary connection with vice. It does follow that the public-school system is not the reformatory agent which it has honestly been supposed to be; that its influence is not to make men good and thrifty and happy; that it is not adapted to produce the best government of the people.

In 1870 the cost of the system which coexisted with the condition of society indicated by these figures, and which has been previously described in this article, was more than *sixty-four million dollars!*

The remedy? A remedy must be found. It can not be set forth in detail at the end of an article like this, which has already exceeded the limits assigned to it. But it may be briefly indicated as a discontinuation of any other education at the public cost than that which is strictly elementary—reading, spelling, writing, and the common rules of practical arithmetic; and in the remission of all education higher than this to parents, the natural guardians and earthly providence of their children. And those children only should be thus educated at public cost whose parents are too poor to give them even an elementary education themselves. Supplementary to this simple system of elementary education, there might be some jealously guarded provision for the higher education of pupils who have exceptional ability and show special aptitude and taste for science or literature.

Moreover, if Government is to assume a parental and formative function, and to attempt the making of good citizens, it may with much more reason and propriety establish public farms and public workshops, and train in them its future citizens to get their own

* My attention was directed to these facts by a pamphlet on the system of anti-parental education, by the Hon. Zachary Montgomery, of California, which I received on the 23d of October last, after the publication of my articles on the public schools, in the "New York Times." Mr. Montgomery's trenchant pamphlet contains very elaborate tables made up from the United States census reports. I have verified them by those reports, and find them essentially accurate and trustworthy.

living honestly and respectably, than it may establish and compel attendance upon schools on a system the result of which, according to the experience of half a century, is deterioration in purity of morals, in decency of life, in thrift, and in all that goes to make good citizens, accompanied by a steadily increasing failure in the acquirement of the very elements of useful knowledge.

RICHARD GRANT WHITE.

THE VALIDITY OF THE EMANCIPATION EDICT.

As a contribution to American literature, the paper of President James C. Welling, in the February number of the "Review," is deeply interesting. As a chapter in American history at a period the most perilous in our existence as a republic, it is an addition not without instruction. As an argument, produced nearly twenty years after the promulgation by President Lincoln of that greatest of all state papers—the Emancipation Proclamation—and after the American people have begun to wonder how human slavery ever came and continued to exist in a civilized country—as an argument impeaching the validity of that proclamation, this paper by President Welling is, in the light of the present, exceedingly ingenious and remarkable. With great apparent attention to detail, evidenced by quotations from sources varied and numerous, the writer invites his reader along after the manner of a plausible advocate who is determined to gain his case before the testimony has been heard. And by this there is no intention to charge misquotation or anything of the sort, for such does not appear. But it is charged that the historic sketch does not give a fair estimate of the history of the Emancipation Proclamation, or of the relation thereto of its sublime author.

In the first place, it is true that President Lincoln took the oath of office with the profoundest feelings of awe respecting the sacredness of the Constitution which he was sworn to defend and support. It is probable that no man ever lived who had a keener sense of his obligations to his Creator and his fellow-men, and who discharged those obligations more conscientiously, than did Abraham Lincoln. Necessarily, then, is it true that he did not rush headlong into any measure or action. And, when once convinced that a path opened before him designed for his footsteps as the President of his country, he walked therein with unfaltering courage and unwavering devotion, pressing toward the mark ever kept in view—"to save

the Union." He felt the load of a nation upon his shoulders, and most righteously did he bear the burden.

No one will deny that Lincoln was opposed heart and soul to human slavery. His debates with Douglas, his early and later career, his every utterance public and private on the subject, bear testimony to this statement. At the same time he recognized the fact that slavery existed, and that there was a recognition of the evil in some of the courts and laws. At the threshold of his administration he was confronted with a war of rebellion on the part of seceding States, the avowed purpose of which war was to destroy the Union and establish a confederacy, the corner-stone of which was to be negro slavery. In such a complexion of affairs did Lincoln enter upon the Presidential office. Yet the learned writer seems in great part to have failed in the comprehension of the magnitude, the length, breadth, height, and depth of those events and upheavals, and the solemnity of the hour.

This appears the more manifest when the reader of his paper comes to analyze the historic sketch, and finds so much stress placed upon the motes and insignificant details. As preliminary, therefore, to that writer's argument against the legality of the proclamation, what boots it, then, the views of Secretaries Chase, Stanton, Welles, and the rest, regarding the conduct of the war? What difference does it make whether Lincoln favored arming the negro before or after the proclamation was issued? What has any or all of this to do with the legality and effect of the proclamation itself? Why should the writer dwell so persistently on the "Greeley faction" and the "pressure" from abolition sources upon the President to adopt extreme measures in regard to slavery? The criticism is not made because the writer produces history relating to the proclamation, but because what is given is incomplete and one-sided.

"Avowed opposition" to arming the negro does not fairly convey Lincoln's attitude on the question. The President had nowhere "avowed" his opposition to arming negroes as distinct from any other feature of the negro question. At the beginning of the struggle he was unwilling to do anything for or against slavery. Yet the learned writer must know that the question of slavery and emancipation with their incidents was a question of growth, and presented itself like a mountain before Lincoln and the whole country. It became the question of the war. Time was a great leveler of opinions as well as author of mighty issues in those days. No one comprehended the vastness of the question. Lincoln grasped

its import more readily, doubtless, than his advisers or the people. His only aim was to "save the Union." Whatever he did was to "save the Union." Whatever he refrained from doing was in order to "save the Union." With this understanding of his purpose and aims it can not be predicated that President Lincoln had an "avowed opposition" to the arming of negroes.

Neither does this learned writer impart a correct view of President Lincoln's treatment of the representatives from the border States. The writer's comments respecting the interview with these representatives and the synopsis of the interview with the Chicago clergymen are very wide of the facts, because they leave the reader to infer that President Lincoln was flippant in his behavior, and lacked sincerity in affairs of the gravest moment; that he was timid, faltering, and weak. No picture could be farther from the real. He was never vacillating. His nature was patiently to hear arguments, weigh them carefully, and then determine according to law and his conscience. Referring to the lack of harmony between the Union men of the border States and the antislavery portion of the Republican party—that portion insisting on radical measures concerning slavery—the writer declares: "Thus placed between two stools, and liable between them to fall to the ground, he determined at last to plant himself firmly on the stool which promised the surest and safest support." This is a sorry figure of Lincoln, indeed. No one of his tried friends or acquaintances will recognize therein the character of the brave, true, uncompromising Lincoln. To multiply examples would be tedious.

In short, from the historic sketch of the learned writer; from his piecemeal quotations of original and secondary evidence; from the diary extracts; from the continual putting forward of the incessant "pressure," "pressure," and the "Greeley faction"—the irresistible inference is that Lincoln came up to the point of proclaiming emancipation like a sheep driven to the shambles; that he squirmed and put off the question, and allowed himself to proclaim something against his will, and in which he had little faith or none; that the proclamation of emancipation was launched forth as a toy-ship, simply to see the spectacular effect!

He asserts, in no indistinct language, that Lincoln was weak and vacillating when he declares: "Doubtless there are those who, on the view here presented, will tax Mr. Lincoln with undue subserviency to party. But it is only just to remember that he tried to avoid its necessity, as with strong crying and tears; that he was

called in his political geometry to deal with problems, not theorems; and that he was a tentative statesman, who groped his way *à tâtons*, not a *doctrinaire*."

The writer then proceeds to consider the force and effect of the proclamation, "viewed in the light of constitutional and of public law. . . . The questions presented," he says, "by the proclamation of January 1, 1863, in the shape actually given to it by Mr. Lincoln, are these:

"*Firstly.* Had the President of the United States, in the exercise of his war powers, a right, under the Constitution and by public law, to decree, on grounds of military necessity, the emancipation and perpetual enfranchisement of slaves in the insurgent States and parts of States?

"*Secondly.* Did such proclamation work, by its own vigor, the immediate, the unconditional, and the perpetual emancipation of all slaves in the districts affected by it?

"*Thirdly.* Did such proclamation, working *proprio vigore*, not only effect the emancipation of all existing slaves in the insurgent territory, but, with regard to slaves so liberated, did it extinguish the status of slavery created by municipal law, insomuch that they would have remained for ever free, in fact and law, provided the Constitution and the legal rights and relations of the States under it had remained, on the return of peace, what they were before the war?

"Unless each and all of these questions can be answered in the affirmative, the Emancipation Proclamation was not authorized by the Constitution or by international law, and, so far as they must be answered in the negative, it was *brutum fulmen*. It remains, then, to make inquiry under each of these heads."

Such are the propositions of the learned writer. He then proceeds to answer in the negative "each and all" of the questions, and hence comes to the conclusion that the Emancipation Proclamation was "*brutum fulmen*"—*a harmless thunderbolt*—"extra-constitutional"—so far outside of the Constitution that an amendment was required to bring the proclamation inside of the Constitution, and that "it seems a waste of logic to argue the validity of Mr. Lincoln's edict." Many readers, doubtless, have been filled with surprise and indignation to find in this year of grace—more than seventeen years after the *fact* of emancipation—that a writer comes forward to announce to the world that Lincoln was an *experimental, irresolute* statesman; that he issued the proclamation in the first instance as a "political

necessity"; that the proclamation itself was a "harmless thunderbolt"; that it was contrary to international law and was unconstitutional; and that it is "a waste of logic" to defend its validity. Such papers, such arguments, and such conclusions, are in keeping with much of the logic and rhetoric heard throughout the land during the nation's struggle for life, and since the close of that struggle. Similar are they to the unceasing clamor that it was "unconstitutional" in 1860 and 1861 to use coercion to stay secession; it was "unconstitutional" for President Lincoln to call for seventy-five thousand troops to quell the insurrection; it was "unconstitutional" to suspend the writ of *habeas corpus;* it was "unconstitutional" to raise money or men for the support of the Union army; "unconstitutional" was it to do or say aught against treason or toward suppressing the accursed rebellion; the same logic and rhetoric that in 1864 pronounced the war to suppress rebellion a failure, and demanded peace on any terms; the same that since the war in every possible manner have opposed reconstruction and complete restoration of the Union.

The processes by which negative answers to the interrogatories quoted above are reached by Mr. Welling remain to be considered. To begin with, let the proclamation itself speak. It is entitled "A Proclamation," and recites:

Whereas, On the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a proclamation was issued by the President of the United States, containing among other things the following, to wit [then follows the warning clause in the September proclamation, declaring that the President would on January 1, 1863, issue a proclamation liberating slaves of all persons then in rebellion against the United States; the clause continuing that the President would on January 1, 1863, designate the States and parts of States in rebellion; and the proclamation proceeds]:

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief of the Army and Navy of the United States, in time of actual armed rebellion against the authority and Government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the day first above mentioned, order and designate as the States and parts of States wherein the people thereof, respectively, are this day in rebellion against the United States, the following, to wit [then follows a list of States and parts of States then declared to be in rebellion, the paragraph closing with the words, "and which excepted parts

are for the present left precisely as if this proclamation were not issued," and then continuing]:

And by virtue of the power, and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States are and henceforward shall be free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

. . . . And I further declare and make known that such persons of suitable condition will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, seriously believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

In witness whereof, etc.

This is the proclamation that is assailed as being against international law and unconstitutional. Here let it be distinctly noted: that President Lincoln, in issuing the proclamation, relied solely upon his powers under the Federal Constitution, "as Commander-in-Chief of the Army and Navy of the United States in time of actual armed rebellion"; that the proclamation was issued as "a fit and necessary war measure for suppressing said rebellion"; that the proclamation did not *pretend* to touch the slavery question in Maryland, Kentucky, Missouri, Tennessee, and parts of Louisiana and West Virginia; that the insurgents had received one hundred days' notice of this January proclamation; that "the Executive Government of the United States, including the military and naval authorities thereof," would "recognize and maintain the freedom of said persons"; and that such liberated persons would be received into the military service of the United States.

I. In the first place, as the reader who has read the attack upon the validity of the proclamation can not fail to perceive, that writer bases his argument and deductions upon the doctrine and rules of international law. His conclusion is, that the Emancipation Proclamation was not only contrary to international law, but was "unconstitutional"—contrary to the Constitution of the United States! The simple statement of the premise, argument, and conclusion of that writer is sufficient, it seems, to exhibit the glaring fallacy of his reasoning.

At the outset of his argument he asserts it to be a well-settled principle that when the doctrine of international law applies at all to a war or condition of affairs, the same doctrine applies at all

times and in all places throughout such war and condition of affairs. If this proposition be true, what pertinency had the Constitution of the United States to the States in rebellion or the Emancipation Proclamation, or to any measure or policy of the United States Government during the rebellion? How could the Emancipation Proclamation be "unconstitutional," if it could be issued only in accordance with the rules of international law? The fallacy is apparent.

But this error is insignificant when compared with others of the writer in question. His fatal and fundamental error is in the endeavor to bring the question of the Emancipation Proclamation under the doctrine of international law in any respect or particular. He begs the question when he assumes that international law is applicable. What is international law? Is it necessary to be rudimental here? The words themselves carry their definition—*the rules of law governing nations, independent states, in their mutual intercourse.* It is the law between independent nationalities. International law has application to independent sovereign states, recognized as such by civilized nations. It has nothing to do, in the first instance, with rebels in arms, savages, or barbarians. Only after the state's independence is recognized by civilized nations, and the state takes on the insignia of a separate and distinct nationality, capable of maintaining its sovereignty, does international law intervene to determine rights and duties. The writer's error is in assuming a false premise for his logic, namely, in assuming that the States in rebellion were entitled to be recognized as a separate and independent State. He exalts seceding and rebellious States, ingredient parts of one nationality, to the dignity of an independent nationality. Having thus exalted secession to this high plane, the writer then proceeds to apply the rules of international law as he construes them. It seems almost a waste of breath, but necessary, to call to mind that the war of the rebellion was not an international war. It was a war of secession, bitter and wicked, aimed at the life of the Union and liberty, and the equality of men before the law. It was a war to destroy the Union and establish slavery. It is important to call things by their right names, and not soar off into glittering phrases about "Confederate States" and "international law." It was none the less treason because the Federal Government, with magnanimity and forgiveness immeasurable and without parallel, condoned and pardoned the greatest of crimes against one's country. Had the rebels in arms succeeded in establishing a

government of their own, as they set out to do, and had their independence been recognized by other nations, then there would be some force in the claim that rules of international law must apply in disposing of the question of slavery and all other questions growing out of the war. It seems necessary to remind Mr. Welling that the rebellion did *not* succeed, and that the seceding States were never, by any state or nationality, recognized as an independent nation. These facts of history ought to be a complete refutation of that writer's entire argument, so far as international law is concerned. That the sun shone yesterday, is a *fact* all men admit. To argue for what *might* have happened had there been no sunshine yesterday would be very like the argument to dispose of the Emancipation Proclamation by rules of international law. However, it may throw additional light upon his inaccuracies to follow him further in his argument respecting international law.

The doctrine of *postliminy* is relied upon by the writer under review. He describes the doctrine as the law "*according to which persons or things taken by the enemy are restored to their former state when they come again under the power of the nation to which they formerly belonged.*" And this is the definition given by Chancellor Kent and other text-writers. In other words, the definition means, as applied by Mr. Welling, that, when the war closed and hostilities ceased, the blacks were restored to the power of their former owners, and were *ipso facto* remanded to slavery. An extended search for authorities has failed to discover one in support of such a deduction. Is not the fallacy of the claim apparent on its face? What are the facts?

President Lincoln went into office in 1861. Secession was staring the Union in the face. Several States attempted to secede from the Union. A gigantic rebellion raged for fully four years. The *avowed purpose* of that rebellion was to destroy the Union and establish a Confederacy based upon human slavery. President Lincoln said, December 1, 1862: "Without slavery the rebellion could never have existed; without slavery it could not continue."* In a speech at Savannah, Georgia, March 21, 1861, the Vice-President of the so-called "Confederacy," in explanation of the rebel Constitution, among other things declared: "The new Constitution has put at rest for ever all the agitating questions relating to our peculiar institutions—African slavery as it exists among us—the proper status of the negro in our form of civilization. *This was the imme-*

* President Lincoln's second annual message.

diate cause of the late rupture and present revolution. Jefferson, in his forecast, had anticipated this as the 'rock upon which the old Union would split.' He was right. . . . The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution were, that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. . . . This idea, though not incorporated in the Constitution, was the prevailing idea at the time. . . . Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. . . . Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests (*sic*) upon the great truth that the negro is not equal to the white man; that slavery—subordination to the superior race—is his natural and normal condition."* The war was universally denominated by the rebels and their sympathizers as an "abolition war." On the part of the Federal Government the war was prosecuted in the first instance and throughout ostensibly and in fact to defend and save the Union, without regard to slavery, up to the date of the Emancipation Proclamation. When the proclamation came, the issue was joined on the question of slavery. From that time forth abolition of slavery was the *sine qua non* to peace and readmission to the privileges of the Union. This principle was steadily asserted and adhered to in every act, message, and official expression of the Administration subsequent to the date of the proclamation. There was no step or utterance backward on the part of the Federal Government. The rebels recognized the issue thus joined. In January, 1863, almost immediately after President Lincoln had issued the proclamation, the question arose in the so-called Confederate House of Representatives as to terms of peace to be demanded by the rebels in the event of any negotiations. A member from Tennessee introduced resolutions on the subject. Their purport to a great extent was: "There is no plan of reconstructing what was formerly known as the Federal Union, to which the people of the Confederate States will ever submit"; in no case would the "Confederate States" unite with "New England," although they would be glad to receive any of the Northwestern States on certain conditions. The resolutions contained further: "While the Confederate States of America are not at all responsible for the existing war, . . . they

* McPherson's "Political History of the Rebellion," 1860–1864, p. 103.

could not yield their consent to an armistice of a single day or hour, so long as the incendiary proclamation of the atrocious monster, now bearing rule in Washington city, shall remain unrevoked. . . . Whenever the friends of peace in the North shall grow strong enough to constrain Abraham Lincoln and his flagitious Cabinet to withdraw said proclamation," then an armistice might be arranged. The "Atlanta Intelligencer" of January 20, 1863, bitterly opposed these same resolutions, and said: "We desire now solemnly to protest against [the resolutions], and we trust that they will be tabled by the Confederate Congress, whenever they are taken up to be considered. We are fighting this war for Southern independence, and for a government of Southern States recognizing African slavery as an institution ordained of God, beneficial to mankind," etc.* In December, 1863, the Governor of North Carolina wrote to Jefferson Davis urging the importance of negotiations for peace. Davis replied, expressing the utter fruitlessness of such negotiations, giving as a reason that repeated efforts had been made to effect a peace conference with the United States, all of which efforts had been rejected by the Federal Government. Among other things he said, "Have we not just been apprised by that despot [Lincoln] that we can only effect his gracious pardon by emancipating all our slaves, swearing allegiance and obedience to him and his proclamation, and becoming, in point of fact, the slaves of our own negroes?"†

Surely these quotations are sufficient to show that the issue as to slavery was clearly defined, and that the proclamation was recognized by the secessionists as something more than a *harmless thunderbolt*. The disunionists were parties to the case then being tried by wager of battle, and it is of the first importance to know how the question of slavery and of the Emancipation Proclamation was regarded by them. They had every possible notice before and after the issue of the proclamation that peace and union would never come without the abolishment of slavery. They were having their day in the court of last resort with this issue clearly before them. How was the issue decided? Could anything be plainer than this: that the surrender of Lee at Appomattox and the laying down of arms by the insurgents were upon the express condition of abolishing slavery? And the trite maxim in law applies—*Omnis ratihabitio retrotrahitur et mandato priori æquiparatur*—every

* McPherson's "Political History," etc., p. 303. † Ibid., p. 307.

ratification of an act already done has a retrospective effect, and is equivalent to a previous request to do it. Prior negotiations for peace had failed, because the insurgents were not willing to recognize and accept the condition. Referring again to the definition of *postliminy*, can it be truthfully asserted that, upon or after this surrender and the acceptance of the condition, the blacks were "restored to their former state," and that they came again "under the power of the nation to which they formerly belonged"? The definition of *postliminy* itself answers in the negative.

Under this first division of his argument, the writer places great store by what he terms a "precedent" furnished by the war of 1812, where Great Britain paid a large indemnity to the United States for slaves emancipated during that war. The writer emphasizes this case, and argues that it is quite conclusive in its application to the war of the rebellion, and this, too, on principles of international law! The writer says: "In the face of a precedent so set and so adjudicated by these great powers, acting under the law of nations (and one of them subsequently known as the leading antislavery power of the civilized world), it would seem that, as a question of law, the first interrogatory must be answered in the negative." The writer is exceedingly unfortunate in his citation, as can be demonstrated. What were the facts in the case? During the war of 1812, Great Britain had freely exercised the right to emancipate slaves of American owners, and large numbers were liberated by proclamation and otherwise. The war closed, and the Treaty of Ghent followed in 1814. One article of this treaty *expressly stipulated* that Great Britain should indemnify the United States for certain slaves so liberated. This was one of the *conditions* of peace. It was a part of the contract between the parties. Then the question arose as to *how much* England should pay the United States as indemnity, under the treaty, and this inquiry as to amount was referred to the Emperor Alexander of Russia. Alexander made his report in general terms, finding that, according to the treaty, England should pay for slaves taken from certain places. This finding was inexplicit, and a dispute arose, England claiming that by the finding she was excused from paying for a certain class of slaves liberated. This dispute was referred back to Alexander. Count Nesselrode, for the Emperor, replied, reaffirming more distinctly the former finding as to what slaves were to be paid for, and added: "But that, if, during the war, American slaves had been carried away by the English forces from other places than those of

which the Treaty of Ghent stipulates the restitution, upon the territory or on board British vessels, Great Britain should not be bound to indemnify the United States for the loss of these slaves, by whatever means they might have fallen or come into the power of her officers."* The award was made in 1822, and required over one million dollars to be paid to the United States. Now, it is incomprehensible how such a case can be cited as a "precedent" to be followed by the United States in a war of rebellion! The Treaty of Ghent as a precedent for the United States in a war with seceding States! But that writer says the United States *claimed* of England indemnity for slaves liberated. True, and England *agreed* to pay for certain of those set free. But the Emperor said, in the quotation made above, that as to certain slaves liberated "Great Britain should not be bound to indemnify the United States." Here was an express recognition of England's right to emancipate slaves during the war without paying indemnity. The United States never made any *treaty* with the seceding States, wherein she agreed to pay for slaves emancipated during the rebellion. Had such a treaty been made, then the Treaty of Ghent might have been cited as a precedent. Yet the Treaty of Ghent case is the only "precedent" cited by the learned writer.

The precedents, however, are opposed to the theory that slavery can not be abolished by decree of emancipation. Had the writer under review gone back a few years in American history, he would have found the right freely applied. In the war of the Revolution the mother-country did not hesitate to exercise that right. Sir Henry Clinton, Lord Dunmore, and other British commanders, made free use of proclamations and orders to liberate the slaves of the colonists.† At the close of the Revolutionary war the United States claimed indemnity for the slaves thus emancipated by British commanders, and endeavored strenuously to incorporate the claim in the Treaty of 1794; but England as strenuously refused to acknowledge the claim, and no indemnity was ever allowed.‡

II. In the second place, following the order of the writer's argument, his first statement is: "No principle of public law is clearer than that which rules the war rights of a belligerent to be correlative and commensurate only with his war powers"—the conclusion

* Lawrence's Wheaton, p. 496, *note*.

† Arnold's "Lincoln and Slavery," pp. 707–709, *et seq*.

‡ Lawrence's Wheaton, p. 611, *note*.

being that, because the Federal authority did not extend by armed force throughout the insurgent territory, therefore the proclamation did not and could not operate where the Federal authority had no *de facto* power. This is relying upon technicalities, and proves too much. For the argument was, that the proclamation was not authorized either by international law or by the Constitution. And the writer admits that wherever the *de facto* power extended the proclamation was effectual. Hence, to refute this branch of the writer's argument it need not be contended that each and every bondman was, on January 1, 1863, *eo instanter*, made free. Halleck is quoted as authority to sustain his statement. Had the writer gone one section further he would have found a qualification to the "paper-blockade" quotation in this form: "It must not be inferred, from what has just been said, that the conqueror can have no control or government of hostile territory, unless he occupies it with an armed force. It is deemed sufficient that it submits to him and recognizes his authority as a conqueror; for conquests are in this way extended over the territory of an enemy without actual occupation with armed force."*

As a fact of history the blacks generally, throughout the entire South, on the first day of January, 1863, regarded themselves as liberated, and acted accordingly. And, as a result of the proclamation, they came flocking by hundreds and thousands into the Union camps, until more than one hundred and thirty thousand able-bodied negroes were fighting and laboring heroically in the armies of the Union. The views advanced hereinbefore under the first division of the argument apply here. The people in rebellion themselves recognized that the proclamation abolished slavery, and ratified the act and fact when they laid down their arms.

It is not worth while to notice the case of the Amy Warwick, cited by the writer under this branch of his subject. That was a decision made in 1862, by an inferior court of the United States, involved a question of maritime capture under the Confiscation Act, and has no application to the question under discussion. The writer persists in confounding the question at issue by assuming and arguing that the war on the part of the Federal Government was prosecuted as a war of *conquest*. The war never was prosecuted for conquest, in the sense of conquering and taking enemy's territory;

* Halleck's "International Law," chapter xxxii, section 3.

but it was prosecuted simply to preserve and restore the Union. The Emancipation Proclamation neither attempted nor assumed to conquer territory or to confiscate property. The proclamation declared: "That all persons held as slaves . . . are and henceforward shall be free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons." Has not the "Executive Government of the United States, including the military and naval authorities thereof," kept its faith and *recognized* and *maintained* "the freedom of said persons"? Have not the negroes, embraced in the terms of the proclamation, been in fact free ever since? Proclamations, laws, and decrees depend for their efficacy upon actual fact, and upon the power of the sovereign authority to enforce obedience.

III. With respect to the writer's argument on the third interrogatory it may be stated, as a general criticism, that it deals more with imaginary and hypothetical difficulties than with realities. He relies upon Lord Stowell's decision in the case of the slave Grace. This was a case arising in English admiralty practice, where a slave named Grace was taken by her master to England from the West Indies. After remaining in England for some time, she returned, voluntarily it appears, with her master to her former home. English authorities brought Grace before an English court, and sought to liberate her as an English subject, on the ground that she had been made free by setting foot on English soil. Lord Stowell held that this did not make her free when she returned with her master into her place of former servitude. The question related in no manner or form to the power of a government or belligerent to emancipate slaves during war or at any other time. The citation is very far fetched. The writer is in error when he says the doctrine laid down by Lord Stowell has been accepted ever since as the law. It has not been the accepted doctrine, by any means, for there has been continuous opposition ever since. Lord Mansfield's decision to the contrary, although rendered previously, in the case of the negro Sommersett, has been as much the accepted doctrine as Lord Stowell's decision. And in view of the fact that international law does not recognize human slavery, according to the ablest modern writers, it is rather singular that the writer should make this assertion, and place his reliance upon a case decided more than *half a century ago*. It is astounding that the writer should style the decision of Lord Stowell as the "accepted doctrine." The

authorities are exactly the reverse in modern times, and sustain the maxim that the "air makes free."*

Under this third subdivision the writer cites as an authority a work on the "Law of Freedom and Bondage." The alleged authority amounts to this: The author of that work appends a note on the subject of emancipation. The note was written after the war of rebellion had commenced, but *before* the Emancipation Proclamation was issued, and that author is simply speculating as to what *might* happen if the authorities at Washington should conclude to proclaim emancipation; and that author adds in substance that, *if* such a proclamation should be issued, questions would naturally arise as to whether a redistribution of State powers would become necessary. This is simply the imagination of one individual before the fact. It is not authority. Yet these authorities, so called, are sufficient, with the Amy Warwick case, for the learned writer to affirm: "It is safe, therefore, to say that the third question above indicated must equally be answered in the negative."

The writer finds consolation for his views in the alleged fears of Lincoln himself concerning the efficacy of the proclamation, and in the fact that Lincoln favored a constitutional amendment. But this does not in any way affect the validity of the proclamation or its force. President Lincoln's proclamation may be likened to a judgment of the court at *nisi prius*. It was valid and effectual from its date unless subsequently reversed, vacated, or modified by a superior tribunal. It never has been reversed, modified, or vacated in any manner; nor has there been any attempt in that direction.

The German writer Bluntschli is cited to the proposition which, as stated, no one would deny, viz., that domestic institutions can not be altered by proclamation. A conquering sovereign does not attempt to change laws of marriage, or local laws, generally speaking. But this does not forbid the sovereign's using every power on earth, that is not inhuman or barbarous, for his own defense and self-preservation. A very careful examination of this German writer at the point cited fails to discover that the page contains anything bearing upon the proposition under inspection. The page quoted does treat of the war powers of the conqueror, but not of the question at issue. It may be remarked here that Bluntschli is

* Woolsey's "International Law," sec. 74, fifth edition; Phillimore's "International Law."

in harmony with the leading writers on international law, when he says, "There can be no such thing as human slavery according to international law." * Neither do the citations from Cadwallader's "Digest" sustain the writer's proposition. On the contrary, the pages cited refer to authorities that militate very strongly against the entire line of argument pursued by Mr. Welling, especially so in the case of New Orleans *vs.* Steamship, † which magnifies the war powers of the sovereign authority.

The writer finally clinches his citations by declaring: "And hence it is no matter of surprise that the first international lawyers of the country, like the Hon. William Beach Lawrence, and the first constitutional lawyers of the country, like the late Benjamin R. Curtis, have recorded their opinion as jurists against the legality of the Emancipation Proclamation." No reference is made to the spot where these men have so recorded their opinions. The section, page, and work should have been given, and then it is possible that a question would have been raised as to what their opinions really meant. However, as to Mr. Lawrence, it may be said that his annotations of Wheaton's "Elements of International Law" would justify the student in concluding that, in his opinion, emancipation by proclamation was outside of President Lincoln's constitutional power. This is the same William Beach Lawrence who has placed a note at the bottom of page 614 of Wheaton. In this note Mr. Lawrence, on this very subject of emancipation, which was then shaking the Union to its foundation, does not express a positive opinion as to its validity. But he does take special pains to refer to a then recent English review of a paper written by Mr. Lawrence on the subject of slavery and commerce in the United States. And Mr. Lawrence, in reviewing this reviewer, says: "The whole question, respecting manumission, is thus summarily enunciated: 'Economically regarded, the question of negroes or no negroes is brought within a narrow compass. No blacks, no cotton; such is the finality.'" These were the sentiments of William Beach Lawrence in 1863, soon after the proclamation was issued. "No blacks, no cotton; such is the finality." In the light of present facts, the soundness of Mr. Lawrence's speculative opinion may be questioned. According to the report of the Chief of the Bureau of Statistics for 1879, the product of cotton in the United States from 1851 to 1860

* Bluntschli, "Das Moderne Völkerrecht," section 360.

† 20 Wallace, p. 887, *et seq.*

was 33,584,611 bales; from 1870 to 1879 it was 41,455,008 bales; an excess for the last ten years of 7,870,397 bales.*

Thus far the object has been to present the argument brought forward by Mr. Welling, and in the same order of argument to adduce answers to his conclusions. It remains to add some general observations on a subject boundless in extent and interest.

The Emancipation Proclamation should be considered not in the theoretical light of an ingenious and technical writer, but from the exalted summit of the great author of the work and in the spirit and intent of the document. It should be considered in its relations to the Federal Constitution and actual facts. President Lincoln assumed to issue the proclamation only by virtue of power given in the Constitution. The proper inquiries, then, would be: Was the proclamation constitutional? Did it accomplish the work for which it was intended? The answers to these inquiries, in connection with what has been written, are not difficult, and may be brief.

It is self-evident, at this period of the nineteenth century, that human slavery is contrary to the law of nations, is contrary to physical law and moral law, and is a crime against civilization. If so now, it always has been illegal and tainted with these infirmities. The Declaration of Independence, which is the Magna Charta of American liberties, proclaims the truth of these axiomatic propositions when it declares: "We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness." The Constitution can not be rightly interpreted without reference to the Declaration of Independence.

It should be remembered, too, that the Federal Constitution nowhere uses the word "slave" or "slavery." It is a matter of history that the framers of the Constitution, in large part at least, were anxious to abolish slavery, and prohibit the traffic by the organic law itself. This element did not succeed, and it is true there is in the Constitution *implied* recognition of slavery; but every such implied recognition carries on its face the potent admission and recognition of the great truth that slavery was then, ever had been, and always would be a curse to civilization. Let the Constitution speak for itself.

This instrument, including the first twelve amendments, con-

* "Internal Commerce for the United States," 1879, by Joseph Nimmo, Jr.

tains but *five* references, expressed or implied, to the "institution." The first occurs in relation to the apportionment of representatives and of direct taxes, and which apportionment is to "be determined by adding to the whole number of free persons, including those bound to service for a term of years and excluding Indians not taxed, three fifths of all other persons." * This is reference number one, and it can not easily be said that it contains a *recognition* of slavery. Reference number two is more explicit. It reads: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress, prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." † Here the implication is very strong that, *after* the year 1808, measures might be adopted prohibiting slavery altogether, if it existed in any of the States, which is not admitted. The clause contains explicit notice to slave-holders, if there should be such, that slavery sooner or later might be abolished. Reference number three occurs in the same section, and reads: "No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore [reference number one] directed to be taken." The next reference is in that clause which gave foundation for the fugitive-slave law. It reads: "No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." ‡ This is reference number four. Does it contain any recognition of slavery as a right under the national Constitution? It would require a fine process of reasoning to answer in the affirmative. It does say that a person held to service in one State, and escaping into another, shall not be discharged from such service by reason of any law of that State into which the person escapes. But it does not declare that Congress, or the President of the United States, or other national authority shall not abolish slavery, or emancipate slaves for the purpose of saving the Union in time of armed rebellion. The fifth and last reference occurs in the article respecting amendments to the Constitution, and provides: "That no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth

* Art. I, sec. 2. † Art. I, sec. 9. ‡ Art. IV, sec. 2.

clauses [references two and three *supra*] in the ninth section of the first article." *

These constitute all and singular the references to "slavery" in the Constitution. Did not slavery for three quarters of a century prior to the Proclamation of Emancipation hang by a very slender thread so far as the Constitution was concerned? It seems absurd to talk about the "rights of slavery" under the Constitution. The most direct references are coupled with stipulations as to the year 1808, implying in terms as direct as possible that after the year 1808 laws would be directed against slavery. Thus it may be concluded that the Constitution contained no prohibition of President Lincoln's proclamation.

On the contrary, it will be discerned that the Constitution contains the strongest terms of approval for the promulgation of that proclamation. It would be a narrow and prejudiced vision which should presume to ascribe to the founders of the Constitution a forecast of every possible emergency that might arise in our future history. Hence, questions have arisen repeatedly in regard to the respective powers of the legislative, executive, and judicial branches of the General Government. Such questions will continue to arise so long as the Union lasts. Enough history has been made, however, particularly during the war of the rebellion, by adjudicated cases and otherwise, sufficiently to demonstrate this one truth, viz., that the war powers of the Federal Government, in every branch of it, are almost boundless. In other words, these war powers of the legislative and executive branches of the Government, by virtue of the Constitution, are amply sufficient to preserve the Union, not only against foreign enemies, but against armed rebellion and secession at home. The United States have inherent power to save themselves. It would be a mockery of national sovereignty if this were not so. The Constitution supports this view.

To begin with, the preamble is the key to the Constitution and to the sovereignty of the United States: "*We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*" May it not be permitted to stop at this guide-post to the Constitution while one impresses indelibly into his consciousness every word and syllable of the great

* Art. V.

thought of this immortal sentence? Then let it be asked whether it be possible to conceive of any agency, power, or means, legislative or executive, that might not constitutionally be used to save and defend this "more perfect Union." Can it then be said that Abraham Lincoln, as President and Commander-in-Chief of the Army and Navy of the United States, with the sworn purpose to save the Union, "in time of actual armed rebellion," and for the purpose of "suppressing said rebellion," committed an unconstitutional act when he proclaimed emancipation?

The Constitution contains many affirmative provisions for the preservation and defense of the Union—among them, that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."* "No State shall enter into any treaty, *alliance*, or *confederation*."† "The executive power shall be vested in a President of the United States of America."‡ "The President shall be Commander-in-Chief of the Army and Navy of the United States, . . . and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment," § and "*he shall take care that the laws be faithfully executed.*" ‖ "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." ¶ "The United States shall guarantee to every State in this Union a republican form of government." ** "*This Constitution, and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.*" ††

The Supreme Court of the United States—the only tribunal whose decision would be authoritative in such a matter—has never been called upon to pass directly upon the validity of the Emancipation Proclamation. But many questions of vast moment growing out of the war, and closely related to the proclamation, have been adjudicated in this Court. And hence we are justified in looking to these cases on kindred subjects.

Almost without exception the Presidential acts, exercised as war powers, have been upheld by the Supreme Court during and since

* Art. I, sec. 8. † Art. I, sec. 10. ‡ Art. II, sec. 1.
§ Art. II, sec. 2. ‖ Art. II, sec. 3. ¶ Art. III, sec. 3.
** Art. IV, sec. 4. †† Art. VI.

the war. Prior to the rebellion important decisions had been rendered defining the war powers of the President. In one case Chief Justice Taney said: "As commander-in-chief he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy. He may invade the hostile country, and subject it to the sovereignty and authority of the United States." * Military orders issued under President Polk in the case of the accession of California, were upheld as constitutional by the Supreme Court. † The provisional courts established by the President in rebel territory during the rebellion have been held constitutional. ‡ The case of Hamilton *vs.* Dillin § is one which gives great prominence to these war powers of the President. The case of Texas *vs.* White is one that should be read by every American citizen who would have a clear view of the powers of the national Government and of the Government's powers of self-preservation.

There is another consideration necessary to a full understanding of the Emancipation Proclamation. It relates to the legislation of Congress prior to the proclamation. There can be no doubt that previous legislation completely justified President Lincoln in making the proclamation. Indeed, Congress explicitly and directly empowered the President to do exactly what he did. It will suffice to refer to one act of Congress, approved July 17, 1862, and entitled "*An Act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes.*" The act is full, and can not be quoted at length. The closing paragraph provides, "*That the President is hereby authorized at any time hereafter, by proclamation* [sic], *to extend to persons, who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare.*" The provisions of this act relating to slavery are made part of the preliminary proclamation of September 22, 1862. The proclamation of January 1, 1863, by recitals adopts the September proclamation. So that here is the authority for

* Fleming *vs.* Page, 9 Howard, 614.

† Cross *vs.* Harrison, 16 Howard, 189; see Dynes *vs.* Havin, 20 Howard, 78.

‡ Texas *vs.* White, 7 Wallace, 700.

§ 21 Wallace, 74; see 6 Otto, 176, 193; 10 Otto, 257.

emancipation by direct act of Congress. Likewise, subsequent legislation is material. An act of Congress, approved March 2, 1867, declared *valid* and *conclusive* "*all acts*, proclamations," etc., issued between March 4, 1861, and July 1, 1866.* By this reference to Congressional action, it is not intended here to convey the idea that such legislation was *necessary* to justify or make valid the proclamation. Such an intent is distinctly disclaimed. But the proclamation has been assailed as "unconstitutional" and "illegal." Hence the citations to prove that the proclamation was and has been sustained by the "supreme law of the land."

That slavery has been abolished it is presumed no one will gainsay. If abolished, when did it cease? Did emancipation take place when the rebel armies capitulated? Nothing was said about slavery when Lee surrendered. Did it take effect at some period subsequent to the day of surrender? For reasons previously stated it could not have taken effect at a subsequent date. Did it not take effect when President Lincoln, acting for the Federal Government, *intended* it should take effect, on January 1, 1863? Or did the thirteenth amendment abolish slavery? This amendment declares:

> Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

This amendment was submitted by Congress to the Legislatures, February 1, 1865. Secretary Seward certified, December 18, 1865, that it had been duly ratified by twenty-seven of the thirty-six States. Did slavery exist in the United States after the Proclamation of Emancipation and up to the time of ratifying the amendment? Such a supposition is impossible. Relatively considered, there was no more *authority* for the amendment than for the proclamation. *Both* depended and depend for their validity upon the fact of their ratification. The *amendment* was ratified by the Legislatures of the States in the manner prescribed by the Constitution. The *proclamation* was ratified according to military warfare by the surrender at Appomattox. Each depended and depends for its efficacy upon the power of the people of the United States to maintain their provisions. The thirteenth amendment was not *necessary* to the abolition of the status of slavery. It performed the office of an entry on the journal of the court after the trial,

* 14 Statutes at Large, 756, sec. 4.

charge of the court, and verdict of the jury—a very fitting method of perpetuating the issue decided.

The United States Supreme Court has thrown light upon the question as to when military proclamations of the President are to be considered as having taken effect. In a leading case the proclamation was one removing restrictions upon trade and commerce. It bore date June 24, 1865. It was not *published* until June 27, 1865—three days later. A divided Court held that the proclamation took effect as of its date. The dissenting opinion contended it could not take effect until publication—the reasoning of both sides of the Court being based upon the ground that proclamations of the President were like statutes in their nature.*

The most authoritative decision of the Supreme Court, and the one nearest related to the Proclamation of Emancipation, occurs in the opinion rendered in the famous "Slaughter-House Cases." The proclamation was not directly in question, and therefore what is said by the Court in regard thereto is in its character *obiter dictum*. It is not out of place to give a brief quotation. The thirteenth and fourteenth amendments were before the Court for construction. The Court say: "In that struggle [the war of the rebellion] slavery, as a legalized, social relation, perished. It perished as a necessity of the bitterness and force of the conflict. When the armies of freedom found themselves upon the soil of slavery, they could do nothing less than free the poor victims whose enforced servitude was the foundation of the quarrel. And when, hard pressed in the contest, these men (for they proved themselves men in that terrible crisis) offered their services and were accepted by thousands to aid in suppressing the unlawful rebellion, slavery was at an end wherever the Federal Government succeeded in that purpose. The proclamation of President Lincoln expressed an accomplished fact as to a large portion of the insurrectionary districts when he declared slavery abolished in them all. But the war being over, those who had succeeded in reëstablishing the authority of the Federal Government were not content to permit this great act of emancipation to rest on the actual results of the contest, or the proclamation of the Executive, both of which might have been questioned in after-times, and they determined to place this main and most valuable result in the Constitution of the restored Union as one of its

* Lapeyre *vs.* U. S., 17 Wallace, 191. See "The Venice," 2 Wallace 258; "The Reform," 3 Wallace, 617; Keith *vs.* Clark, 7 Otto, 454.

fundamental articles. Hence the thirteenth article of amendment of that instrument."*

It is very interesting in this connection to know how the proclamation has been construed and regarded by the Supreme Courts of those States in rebellion—the States immediately affected by it. As might be expected, the proclamation has been before those Courts for construction. A careful examination of all the reports of those States, issued since the rebellion, discloses that the proclamation has been passed upon directly or indirectly in all of these Courts. Generally speaking, the effect of the proclamation has been considered *indirectly*, in connection with other questions, so that the cases are few where the Court has passed upon the proclamation directly. Some of the Courts have made decisions bearing upon it, and then have reconsidered their decisions, leaving the question open. *All* of the Courts recognize, without qualification, that slavery has been abolished. According to the latest decisions, it is held in Georgia that it is unnecessary to decide *when* slavery was abolished. In Mississippi, say the Court, "It has not yet [1870] been adjudicated by the Courts of this State at what precise time slavery was abolished."† In South Carolina and Virginia the Courts have distinctly held that slavery was *not* abolished by the Emancipation Proclamation, but that emancipation was brought about by the war and by conquest.‡ The Supreme Court of Louisiana has expressly decided that slavery was abolished by the Emancipation Proclamation as of its date, January 1, 1863.§ In Texas, the precise question arose in "The Emancipation Cases," decided in 1868.‖ The Court were divided in opinion—three holding that slavery was *not* abolished by the proclamation. Two of the judges held that slavery *was* abolished by the proclamation, as of January 1, 1863. The dissenting opinion of Mr. Justice Hamilton in this case is a remarkable exhibition of learning, logic, and legal acumen. The majority opinion in this case was subsequently questioned, and the date of emancipation is now an open one in Texas. The Supreme Court of Alabama has delivered the clearest decision of all, to the effect that slavery was abolished January 1, 1863, by the proclamation. The Court held: "The emancipation of slaves in this State is a fact which will be judicially noticed by

* 16 Wallace, 68.
† 43 Mississippi, 102.
‡ 13 "South Carolina Equity," 366.
§ 20 Louisiana Anhual, 199.
‖ 31 Texas, 504.

the Courts, and it must be referred to some particular date. It was effected by the nation and not by the State. The only national act that decreed it was the proclamation of the President, of the 1st of January, 1863. The struggle afterward was merely an effort to prevent the proclamation from being carried into effect, and the total failure of the struggle refers emancipation back to that date."* The question afterward arose in this Court, when the *date* of emancipation seemed to be questioned, although this decision was reaffirmed. But Mr. Justice Peters delivered a dissenting opinion, rearguing for the full validity and effect of the proclamation as of its date. His opinion displays great learning and good sense. In support of his reasoning he cites the case of McIlvaine *vs.* Coxe, † decided by the United States Supreme Court, where it was held that the Declaration of Independence took effect as of its date, July 4, 1776, instead of September 3, 1783, when independence was officially recognized. ‡

Viewed as to its results, the Emancipation Proclamation was an overshadowing and glorious success. It united the friends of the Union. It threw into despairing forces new life. It brought into the armies of the Union as by magic one hundred and thirty thousand soldiers from the enfranchised race. It was the death-blow to slavery, not only in the sections embraced in the proclamation, but in the other slave-holding States, for these other slave-holding States at once proceeded to adopt constitutional amendments abolishing slavery. It was a finishing stroke to the rebellion. Without the proclamation, is it not safe to presume that the Union would have perished?

Therefore are these conclusions irresistible: that President Lincoln's Emancipation Proclamation was not contrary to international law; that *by its own force* it abolished slavery as of the date on which it was issued, viz., January 1, 1863; that it was in the strictest sense constitutional; and that no constitutional amendment was necessary to make the proclamation valid or effectual, or to abolish the status of slavery.

The immortal Lincoln was in no sense a smatterer. He was a profound reasoner. He was learned in the law. He studied and understood the Constitution of his country. He did not issue proclamations for sport, or to be hooted at. He did not toy with the mighty concerns of a republic. His every act was governed by

* 43 Alabama, 592. † 4 Cranch, 209. ‡ 44 Alabama, 70.

the sincerest convictions guided by conscience. He was eminently a statesman. Patriotism and heroism were his crowning virtues. Whatever he did as President was done "to save the Union."

AARON A. FERRIS.

[NOTE.—In the August number of the "Review" appears a paper on the same subject by Richard H. Dana, wherein the article by Mr. Welling is cordially endorsed. Mr. Dana goes even further than the previous writer, and styles the proclamation as a "nullity" and as "a curiosity of history." Inasmuch as Mr. Dana simply affirms the conclusions of Mr. Welling, it is not deemed necessary to add anything here.]

A. A. F.

INDEX

TO THE

HUNDRED AND THIRTY-FIRST VOLUME

OF THE

North American Review.

Advantages of Free Religious Discussion, 410.

Ammen, D. The Nicaragua Route to the Pacific, 440.

Astronomische Nachrichten, 383.

Astronomy, Recent Progress in, 375.

Bacon, L. The Observance of the Sabbath, 322.

Bartlett, S. C. The Exodus of Israel, 26.

Bastian, H. C. His *Brain as an Organ of Mind*, 277.

Beard, G. M. Recent Works on the Brain and Nerves, 278.

Bible, The Coming Revision of the, 447.

Bismarck, Prince, as a Friend of America and as a Statesman, 1, 157.

Blair, M. The Republican Party as it Was and Is, 422.

Boutwell, G. S. The Future of the Republican Party, 475.

Brain, The, as an Organ of Mind. By H. C. Bastian. Notice of, 277.

Busch, M. Prince Bismarck as a Friend of America, etc., 1, 157.

Campaign of 1862, 332.

Canada and the United States, 14.

Canal, The Panama, 75.

Census Laws, The, 135.

Charnay, D. The Ruins of Central America, 89, 185, 301, 431, 519.

Chinese Institutions, The Perpetuity of, 205.

Church Property, The Taxation of, 362.

Clampitt, J. W. The Trial of Mrs. Surratt, 223.

Clarke, J. F. Rational Sunday Observance, 496.

Coming Revision of the Bible, 447.

Congdon, C. T. Recent Literature, 177.

Cowper. By Goldwin Smith. Notice of, 177.

Crane, T. F. Recent European Publications, 457.

Crosby, H. The Coming Revision of the Bible, 447.

Curtius, E. Discoveries at Olympia, 484.

Dana, R. H. Nullity of the Emancipation Edict, 138.

Democratic Party, The, judged by its History, 285.

Die neue Strassburger Sternwarte. Von A. Winnecke. Notice of, 383.

Discoveries at Olympia, 484.

Distribution of Time, 528.

Doane, W. C. The Advantages of Free Religious Discussion, 410.

Dobson, A. His *Vignettes in Rhyme*, 180.

Dowse, S. His *Neurasthenia*, 277.

Edison, T. A. The Success of the Electric Light, 295.

Editor, The. Ruined Cities of Central America, 89.

Electric Light, The Success of the, 295.

Emancipation Edict, Nullity of the, 128.

Emancipation Edict, Validity of the, 551.

English House of Lords, 44.

English Poets, edited by T. W. Ward. Notice of, 179.

Exodus of Israel, The, 26.

Ferris, A. A. Validity of the Emancipation Edict, 551.

Fiske, A. K. Profligacy in Fiction, 79.

Forbes, R. B. Steamboat Disasters, 257.

Future of the Republican Party, 475.

God, The Personality of, 241.

Gyldén, H. His *Versuch einer mathematischen Theorie des Lichtwechsels*, 380.

Hale, E. E. Insincerity in the Pulpit, 268.

Hardaker, M. A. The Ethics of Sex, 62.

Harris, W. T. The Personality of God, 241.

Harvard College Observatory Report. Notice of, 380.

Hase, K. His *Miracle Plays and Dramas*, 461.

HOLDEN, E. S. Recent Progress in Astronomy, 375.
Insincerity in the Pulpit, 268.
Israel, The Exodus of, 26.
JAY, J. Southern Statesmen and their Policy, 507.
JOHNSON, C. F. The Census Laws, 135.
Law of Newspaper Libel, 109.
LAWRENCE, W. B. The Monarchical Principle in our Constitution, 385.
LESSEPS, F. de. The Panama Canal, 75.
Life and Genius of Calderon. Notice of, 461.
Literary Notices, 79, 177, 278, 375, 457.
Lords, The House of, 44.
Mathematische Theorie des Lichtwechsels. etc. Notice of, 380.
Manzoni's Correspondence with Fauriel. Notice of, 457.
Maudsley, H. His *Pathology of Mind*, 277.
Miracle Plays and Sacred Dramas, by K. Hase. Notice of, 461.
Monarchical Principle, The, in our Constitution, 385.
Moths. By "Ouida." Notice of, 83.
Nana. By E. Zola. Notice of, 79.
Neurasthenia. By S. DOWSE. Notice of, 277.
NEWCOMB, S. Principles of Taxation, 142.
Newspaper Libel, The Law of, 109.
Nicaragua Route to the Pacific, 440.
Nullity of the Emancipation Edict, 128.
Observance of the Sabbath, 322.
Observations during Solar Eclipses. By A. C. Ranyard. Notice of, 381.
Olympia, Discoveries at, 484.
"Ouida." Her *Moths*, 83.
Panama Canal, 75.
Pathology of Mind. By H. Maudsley. Notice of, 277.
Perpetuity of Chinese Institutions, 205.
Personality of God, 241.
PITZER, A. W. Taxation of Church Property, 362.
Poems of R. H. Stoddard. Notice of, 181.
Political Situation, The, from a Financial Standpoint, 464.
Prince Bismarck as a Friend of America and as a Statesman, 1, 157.
Principles of Taxation, 142.
PROFFATT, J. The Law of Newspaper Libel, 109.
Profligacy in Fiction, 79.
Public-School Failure, The, 537.
Pulpit, Insincerity in the, 268.
Purgatory of Dante Alighieri. Notice of, 462.
Ranyard, A. C., his *Observations during Solar Eclipses*, 381.
Rational Sunday Observance, 406.
Recent European Publications, 457.
Recent Literature, 79, 278, 457.
Recent Progress in Astronomy, 375.
Recent Works on the Brain and Nerves, 278.
Religious Discussion, Free, Advantages of, 410.
Republican Party, The, as it Was and Is, 422.
Republican Party, The Future of the, 475.
Resultados del Observatorio nacional argentino, Notice of, 375.
ROGERS, J. E. T. The English House of Lords, 44.
Ruined Cities of Central America, 89.
Ruins of Central America, 185, 301, 431, 519.
Sabbath Observance, 322.
Šafarik, A., his *Farbenwechsel von Alpha Ursæ majoris*, 380.
School, The Public, its Failure, 537.
Sex, The Ethics of, 62.
SMITH, G. Canada and the United States, 14.
Smith, G., his *Cowper*, 177.
Songs of the Springtides, by A. C. Swinburne, Notice of, 183.
Southern Statesmen and their Policy, 507.
Steamboat Disasters, 257.
Stoddard, R. H., his *Poems*, 181.
STORRS, E. A. The Democratic Party judged by its History, 285.
Success of the Electric Light, 295.
Sunday Observance, Rational, 496.
Surratt, Trial of Mrs., 223.
Swinburne, A. C., his *Songs of the Springtides*, 183.
Taxation of Church Property, 362.
Taxation, Principles of, 142.
Time, the Distribution of, 528.
Trial of Mrs. Surratt, 223.
Ueber den Farbenwechsel, etc., von A. Šafarik, Notice of, 380.
Ueber die von Swedenborg aufgestellte Kosmogonie, Notice of, 378.
Validity of the Emancipation Edict, 551.
Vignettes in Rhyme, by A. Dobson, Notice of, 180.
WALDO, L. The Distribution of Time, 528.
Ward, T. W., his *English Poets*, 179.
WHITE, R. G. The Public-School Failure, 537.
WILLIAMS, S. W., The Perpetuity of Chinese Institutions, 205.
Winnecke, A., his *Neue Strassburger Sternwarte*, 383.
WRIGHT, D. T. The Campaign of 1862, 332.
Zola, E., his *Nana*, 79.